

OVERSIGHT OF FCC BUDGET AND MANAGEMENT

HEARING

BEFORE THE
SUBCOMMITTEE ON COMMUNICATIONS AND
TECHNOLOGY
OF THE
COMMITTEE ON ENERGY AND
COMMERCE
HOUSE OF REPRESENTATIVES
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OVERSIGHT OF FCC BUDGET AND MANAGEMENT

WEDNESDAY, SEPTEMBER 17, 2014

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:20 a.m., in room 2123, Rayburn House Office Building, Hon. Greg Walden (chairman of the subcommittee) presiding.

Present: Representatives Walden, Latta, Shimkus, Terry, Blackburn, Lance, Guthrie, Kinzinger, Long, Eshoo, Braley, and Waxman (ex officio).

Staff Present: Ray Baum, Senior Policy Advisor/Director of Coalitions; Sean Bonyun, Communications Director; Leighton Brown, Press Assistant; Andy Duberstein, Deputy Press Secretary; Graham Dufault, Policy Coordinator, CMT; Gene Fullano, Detailee, Telecom; Kelsey Guyselman, Counsel, Telecom; Grace Koh, Counsel Telecom; Tim Pataki, Professional Staff Member; David Redl, Counsel, Telecom; Charlotte Savercool, Legislative Clerk; Shawn Chang, Minority Chief Counsel for Communications and Technology Subcommittee; Margaret McCarthy, Minority Professional Staff Member; Ryan Skukowski, Minority Policy Analyst and Patrick Donovan, Minority FCC Detailee.

OPENING STATEMENT OF HON. GREG WALDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. WALDEN. We will call to order the subcommittee on Communications and Technology for our hearing on the oversight of the FCC budget and management.

Today we continue the committee's efforts to reform the FCC's process. For the past two Congresses the House has passed the Federal Communications Commission Process Reform Act. The FCC Process Reform Act is bipartisan legislation that passed the House on March 11 of this year and would bring needed reforms to the commission's processes to guarantee the transparency and accountability that is the hallmark of effective and legitimate government.

Unfortunately, like so many really, really good pieces of bipartisan legislation, H.R. 3675 remains stuck and stalled in the Senate, without so much as a hearing to consider this much-needed legislation. While the FCC process reform continues to wait for the Senate the Energy and Commerce Committee has kept our foot on

the accelerator and continued with our oversight efforts of the Federal Communications Commission processes.

In this time of transformative technological innovation and unprecedented private investment in the communication sector of our economy, we have to ensure that the FCC does remain vigilant in executing the duties prescribed by the Congress, operates within the bounds of the law, and does these things transparently, effectively, and efficiently. The American people deserve no less.

When we last convened to discuss the oversight and FCC process reform, we met with Chairman Wheeler amid reports of fraud processes undermining the Commission's decision-making. We voiced our concerns regarding reports of the chairman's office withholding decision documents for other members of the commission until the eleventh hour and decisions by the chairman's office used the delegated authority of the bureaus to circumvent debate and vote by the full Commission.

While I am a firm believer that the buck stops with the chairman, the FCC is a complex organization with a myriad of levels of bureaucracy. So today we will take a closer look at the FCC below the commissioner suites of the eighth floor.

Now, since our last hearing the subcommittee has examined additional aspects of the FCC's operation, including management of backlog and current workload, staffing, its budget and operating expenses, as well as other related issues through inquiries and information requests to the agency.

The FCC's responses to our questions, reports, submitted by the Inspector General and reports in the media, raised some concerns, are pretty serious as to whether the FCC's house is actually in order. In contrary to Chairman Wheeler's oft touted remedy, the solution to the Commission's woes is not simply to throw more money at the problem, but to use the money available to the Commission more effectively.

Nowhere is this more evident than in the FCC's IT expenditures. According to the FCC's responses to our data requests, it spent more than \$352 million in the last 5 years on IT. Now, how much of that money was wasted on the FCC's disastrous revamp of its Web site? How much is now being spent to quote unquote "fix the Web site" that then FCC's CIO Steve VanRoekel said would pay for itself in just 9 months? And how much was spent on the Commission's public efforts to consolidate aging licensing systems only to have the project simply disappear; years of work apparently abandoned.

Duplicative spending also seems to be a challenge for the Commission. While I applaud the FCC's efforts to reduce waste, fraud, and abuse in Universal Service Fund it appears from Mr. Hunt's testimony that the Commission now has two teams doing substantially similar work. I should note that Mr. Hunt's raising of this issue is itself a profile in courage, as, unlike many other Inspectors General within the U.S. Government, the chairman can recommend his removal. So he is in a unique position, but we appreciate your thoughtful testimony.

The FCC has big challenges to address and hopefully today's hearing will put some light on those efforts. This morning, we will hear from Mr. Jon Wilkins, who is the FCC's managing director,

whose office is responsible for the administration and management of the Commission, including such things as the Commission's budget and financial programs, human resources, and communications and computer services.

He is joined by David L. Hunt, the FCC's Inspector General's office provides investigations, audits, and reviews of the FCC's programs and operations. It is my hope that their responses to our questions will provide us with a better understanding of the FCC's challenges and how the FCC plans to return to the fundamentals of strong management and fiscal prudence.

With that I yield the balance of my time to the Vice Chair of the committee, Mr. Latta.

[The prepared statement of Mr. Walden follows:]

PREPARED STATEMENT OF HON. GREG WALDEN

Today we continue with the committee's efforts to reform FCC process. For the past two congresses, the House has passed the Federal Communications Commission Process Reform Act. The FCC Process Reform Act is bipartisan legislation that passed the House on March 11 of this year and would bring needed reforms to the commission's processes to guarantee the transparency and accountability that is the hallmark of effective and legitimate government. Unfortunately, like so many pieces of bipartisan legislation, H.R. 3675 remains stuck in the Senate, without so much as a hearing to consider this needed legislation.

While FCC process reform continues to wait for the Senate, the Energy and Commerce Committee has kept our foot on the accelerator and continued with our oversight efforts to improve FCC processes. In this time of transformative technological innovation and unprecedented private investment in the communications sector of our economy, we must ensure that the FCC remains vigilant in executing the duties prescribed by Congress, operates within the bounds of the law, and does these things transparently, effectively, and efficiently. The American people deserve no less.

When we last convened to discuss oversight and FCC process reform, we met with Chairman Wheeler amid reports of flawed processes undermining the commission's decision-making. We voiced our concerns regarding reports of the chairman's office withholding decision documents from other members of the commission until the eleventh hour, and decisions by the chairman's office to use the delegated authority of the bureaus to circumvent debate and vote by the full commission. While I am a firm believer that the "buck stops" with the chairman, the FCC is a complex organization with myriad levels of bureaucracy. Today, we will take a closer look at the FCC below the commissioner's suites of the "8th floor."

Since our last hearing with Chairman Wheeler, the subcommittee has examined additional aspects of the FCC's operation including, management of backlog and current workload, staffing, its budget and operating expenses, as well as other related issues through inquiries and information requests to the agency. The FCC's responses to our questions, reports submitted by the Inspector General and reports in the media raise serious concerns as to whether the FCC's house is in order.

And contrary to Chairman Wheeler's oft-touted remedy, the solution to the commission's woes is not simply to throw more money at the problem, but to use the money available to the commission more effectively. Nowhere is this more evident than in the FCC's IT expenditures. According to the FCC's responses to our data requests, it has spent more than \$352 million in the last five years on IT. How much of that was wasted on the FCC's disastrous revamp of its Web site? How much is now being spent to "fix" the Web site that then-FCC CIO Steve Van Roekel said would pay for itself in just nine months? And, how much was spent on the commission's public efforts to consolidate aging licensing systems, only to have the project simply disappear, years of work apparently abandoned?

Duplicative spending also seems to be a challenge for the commission. While I applaud FCC efforts to reduce waste, fraud, and abuse in the Universal Service Fund, it appears from Mr. Hunt's testimony that the commission now has two teams doing substantially similar work. I should note that Mr. Hunt's raising of this issue is itself a profile in courage, as unlike many other inspectors general within the U.S. government, the chairman can recommend his removal.

The FCC has big challenges to address and hopefully today's hearing will shed some light on those efforts. This morning, we will hear from Mr. Jon Wilkins the FCC's Managing Director whose office is responsible for the administration and management of the commission including such things as the commission's budget and financial programs, human resources, and communications and computer services. He is joined by David L. Hunt the FCC's Inspector General whose office provides investigations, audits, and reviews of the FCC's programs and operations. It is my hope that their responses to our questions will provide us a better understanding of the FCC's challenges and how the FCC plans to return to the fundamentals of strong management and fiscal prudence.

Mr. LATTA. I thank the chairman for yielding and I appreciate you holding this hearing today and I thank our witnesses for being with us today.

Oversight of the FCC serves a critical function in maintaining efficiency, transparency, and accountability at the agency. Given the FCC's integral role in the information and communications technology marketplace, and the growing online ecosystem, we have a responsibility to ensure that the processes and procedures at the FCC are not wasteful and reflect the capability that handles such significant parts of our Nation's economy.

To that end, today's hearing represents a valuable opportunity to gather additional information about the FCC's budget management, and spending practices and better understand challenges confronting the agency, its work, and other potential issues limiting the efficiency of its operations.

I look forward to the testimony of our witnesses, Mr. Chairman. With that I yield back.

Mr. WALDEN. The gentleman yields back.

I now turn to my friend and colleague from California, Ms. Eshoo for an opening statement.

OPENING STATEMENT OF HON. ANNA G. ESHOO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. ESHOO. Thank you, Mr. Chairman, for holding this hearing, and good morning to our witnesses and welcome.

Connecting America, protecting and empowering consumers, and promoting competition, these are among the strategic goals outlined by the FCC in its fiscal year 2015 budget request.

Now, to achieve these goals, the FCC has to be equipped with the necessary resources to effectively carry out its mission, including sufficient staffing, a modern IT system, which we will talk about, and improved collection of consumer complaint information so that the agency and its people really better understand the communication challenges facing the American people; not just the interests that come in the door, but what the American people are saying.

And very recently, what the American people were saying, there were so many of them saying it that the system crashed. So I don't think in my view that we were very well prepared for that.

Now, the office of the Inspector General, I have a great deal of regard, a deep regard for IGs across our government because they play really a critical role in upholding the integrity of an agency. And so that the American public knows, you are the ones that are there for them to guard against any kind of abuse, any kind of fraud, any kind of waste and I think that we are all cognizant of

that, and that we have a regard for it, and the independence of IGs is very important.

I have never understood why the system is the way it is because it establishes huge tensions immediately. I learned this when I was almost a 10-year member of the House Intelligence Committee. You know, the intelligence community didn't want IGs to do a damn thing, but the head of the agency was the one that was calling the shots. I mean, go figure.

So but that is the way it is set up. I don't think it is the best way. But for decades, the audits and the investigations conducted by the IG's office have, I think, complemented the FCC's work.

Now, in recent years, it has included the implementation of important programmatic reforms to strengthen and modernize the agency, but despite the dramatic increase in scope and breadth of issues being considered by the FCC over the past 30 years, today's FCC has 200 fewer employees than it did in 1984.

So we are charging the agency with executing the world's most complex spectrum auction, evaluating two major, major mergers, and preparing for the IP transition. This all requires significant staff time and resources. And the agency funds the IG. And the IG has a considerable team of people in the agency sourced through their HR department; I think 39 or 40 employees, I have like 12 in two offices. So you have a lot of people.

And so I think today what I would like to know, and I hope that there are not personality conflicts in this. That is the mark of humanity. I really want to examine what you think you are not able to do that you should be doing. I don't believe that we need criminal investigators relative to the E-Rate going into classrooms and libraries. I think that is the equivalent of having all of these Army tanks going into local PDs, they all don't need that.

I hope today that when the IG leaves, that he and his team will have a clear understanding from Members of Congress of what we want, we think is important that you keep your eye on in terms of investigation and all of that.

So with that, Mr. Chairman, thank you for holding this hearing.

It is always important for us to review the efficiency and the effectiveness of an agency and I think that is what today's hearing is about.

Thank you, and I yield back.

Mr. WALDEN. I thank the gentlelady.

I now turn to the vice chair of the full committee, Ms. Blackburn from Tennessee, for 5 minutes.

OPENING STATEMENT OF HON. MARSHA BLACKBURN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mrs. BLACKBURN. Thank you, Mr. Chairman.

And I thank you for your focus that you have put on FCC reform and the importance of that, especially as we look at being a knowledge economy, as we look at interactive technologies and the impacts that they have on every single sector of our economy.

As we do the oversight and look at process and look at reforms with you all, we are interested to hear what you have to say and

the chairman said that well in his opening statement, and looking at what is happening throughout the bureaucracy of the FCC.

One of the things that we will be looking for is how close are you to your core competencies and your core mission in delivering service to the American people? Where are you into areas where you should not be and what type of resources are you expending on those areas? The bureaucracy, and how that has grown, has changed, what has happened with that process? And we do this in the light as we seek to rid the agency of duplication. And by the way, the Inspector General's office and the FCC strike force, that might be one of those areas of duplication where resources would be better used.

We do this realizing that we have a responsibility to the taxpayer. Hard-working taxpayers send their money to Washington, D.C. Many taxpayers struggle to live within their means and pay taxes to the Federal Government for a government that refuses to live within its means. We are still borrowing \$0.36 of every dollar we spend.

So due diligence and making certain that the bureaucracy, via the use of technology continue to right size themselves and not duplicate programs, and not waste funds, and not have the attitude of, well, it is Federal money, if we need more, we can print more. Those are things that are important to our constituents, and we appreciate that you are willing to be here and help us answer those questions.

I will be willing to yield time to any Member who would seek it.

Mr. WALDEN. Anyone on our side want the rest of the time?

Mrs. BLACKBURN. I yield back to the chairman.

Mr. WALDEN. I thank the gentlelady for her work on these and other issues.

And now we will turn to the gentleman from California with the bright purple tie, Mr. Waxman, for 5 minutes.

Mr. WAXMAN. Thank you, Mr. Chairman, you have Californians to the left of you.

Mr. WALDEN. Usually always that is the case.

Mr. WAXMAN. And we are pleased to be with you.

Mrs. BLACKBURN. And Tennesseans to the right.

OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WAXMAN. Far right.

This subcommittee has spent a substantial amount of time focused on the operations and processes of the Federal Communications Commission, and I support oversight of the FCC, which is a small but critical agency charged with overseeing industries that make up nearly $\frac{1}{5}$ of our National economy.

What we are learning is that the FCC is making significant progress in improving its operations and eliminating backlogs. Under former Chairman Genachowski and current Chairman Wheeler, the FCC has taken strides to improve transparency and efficiency in decisionmaking. Within the past 6 months alone, the agency has closed over 640 dormant proceedings and doubled the total number of media license applications resolved in all of 2013.

The Commission is also working hard to reduce the number of backlog across all of its bureaus and offices. And although contentious issues often grab headlines, the vast majority of decisions made by the chairman and commissioners are bipartisan and unanimous.

Chairman Wheeler came into office at the end of last year and immediately took action to build on the momentum for process reform. On his first day in office, Chairman Wheeler appointed a senior advisor to examine FCC process reform and issue recommendations for agency action.

One of our witnesses today, Mr. Wilkins, will be able to tell us about the progress that is being made to implement those recommendations as well as the barriers preventing the agency from making process improvements. Process reform is moving forward at the same time the FCC is implementing a significant new law and overhauling numerous programs for the broadband era.

Congress has tasked the FCC with conducting the world's first ever incentive spectrum auction. This is a complex task with many competing priorities that will impact competition and innovation for years to come. The FCC has also adopted reforms to all four of the Universal Service Fund programs, most recently in the E-Rate program. These reforms will enhance support for connectivity and capacity to schools and libraries across the Nation.

And an unprecedented number of Americans have filed comments with the agency about the proposed open Internet rules. Despite the difficult budget climate, the dedicated and talented public servants at the FCC are ensuring the agency's mission is being fulfilled.

Today we will also hear from the FCC's Office of Inspector General. Inspectors General were created by Congress to protect the integrity of agencies and programs funded with public resources.

And I look forward to learning about the significant accomplishments of the Inspector General in combatting waste, fraud, and abuse. I take seriously the concerns that the IG has raised and I want to learn more about them.

Thank you, Mr. Chairman.

And then I yield back the balance of my time.

Mr. WALDEN. The gentleman yields back the balance of his time.

That concludes our opening statements from the committee members. We thank you all for your participation.

We will go now to our first witness Mr. Jon Wilkins who is the managing director of the Federal Communications Commission. Mr. Wilkins, thank you for being here. Thanks for the work you do. Pull that microphone a little closer, and please go ahead.

STATEMENTS OF JON WILKINS, MANAGING DIRECTOR, FEDERAL COMMUNICATIONS COMMISSION; AND DAVID HUNT, INSPECTOR GENERAL, FEDERAL COMMUNICATIONS COMMISSION

STATEMENT OF JON WILKINS

Mr. WILKINS. Thank you. Good morning Chairman Walden, Ranking Member Eshoo, members of the subcommittee. My name is Jon Wilkins, and since November—

Mr. WALDEN. Yes, you actually have to be pretty close to these. That is better.

Mr. WILKINS. OK. And since November last year I served as the FCC's managing director.

My testimony today will focus on our management activities, how they relate to our budget and especially to our process reform efforts. And I have already submitted my written testimony so I will just focus on a few points and then answer all of your questions.

As managing director, my primary function is to support the efficient and effective management at the FCC. My staff of 208 employees includes areas including budget, IT, HR administration. As several members of the subcommittee have noted, immediately upon coming into office Chairman Wheeler identified process reform as a priority management objective. My staff was heavily involved in developing the recommendations that flowed into the February 14th staff report.

From a management standpoint, process reform fundamentally is about measuring and tracking. When we can measure and track, we actually can simultaneously become more transparent and more efficient and that is the mission that my office has in process reform.

Today we have delivered some early wins of available resources. Just a few examples by the end of this year, we will have a new consumer complaint process online that will be much better; online FOIA, and electronic filing; we are working on improving the Web site; we have also directly supported Commission bureau efforts to close both 1,500 stale dockets, and by our broadest measure of backlog we have reduced that about 29 percent since May.

In addition to the process reform focus, we do do budget IT and human capital work commission wide, so just a few points of emphasis. First, the budget is the starting point for all of our management efforts. As I came in and began to develop forward-looking plans for the new chairman's priorities, I pretty quickly did grapple with the reality that the flat funding the Commission has had since 2009, despite the growth in some operational costs, and quite a few new mandates, it really has challenged our ability to maintain current service levels.

Another factor, the impact of sequestration did introduce some real budget uncertainties that made it quite hard recently to be investing in any kind of long-term efficiency. So given that, our 2015 budget request asks for an increase in three areas.

First, we do have some uncontrollable cost increases, rent, utilities, pay increase, retirement plan, and support.

Second, IT modernization, fundamentally, is about trying to improve our IT cost profile as well as better deliver mission objectives, including process reform. We have asked for a total of \$18 million in funds for several IT areas, but primarily for the enterprise modernization. That really will tackle head on the main problem we face in IT, which is our 207 legacy systems, over 40 percent of which are over 10 years old that really are just increasingly expensive for us to maintain and operate.

And third, Chairman Wheeler made very clear to FCC management that he views USF oversight and enforcement as a top priority. Our 2015 budget request supports that by asking for 45 new

FTEs at a cost of \$10.8 million, to be part of an interagency USF oversight task force that actually included several FTEs for the IG's office; and the overall focus is to make sure that we are fully discharging our obligations to oversee universal service as it is going through a number of major changes.

At this point I do just want to address a couple of quick points in the Inspector General's written testimony.

First, Commission management unequivocally respects, values, the independence of the Office of Inspector General. We do not interfere in the Inspector General's mission.

Second, specifically with regard to hiring activities, the Section 1811 criminal investigators. We fully agree the IG has independence to hire whoever their office needs to fulfill their mission, my HR staff does have an obligation to ensure that we are complying with applicable civil service rules, and that is the only constraint that we have.

And third, the Commission really does take seriously our management's oversight obligation of universal service. We have always coordinated with the Inspector General's office. We will do more of that in the future and we view it as a really top priority for management to make sure we are fully discharging our obligations over universal service.

So just to conclude, I do have very clear marching orders in my office. Chairman Wheeler has directed me to improve our management practices to take all steps possible to implement process reform. We are fully funded by regulatory fees and so we are very mindful of making every dollar count.

And I look forward to taking your questions, so thank you.

Mr. WALDEN. Mr. Wilkins, thank you very much.

[The prepared statement of Mr. Wilkins follows:]

**Testimony of Jon Wilkins
Managing Director
Federal Communications Commission**

**Before the Committee on Energy and Commerce
Subcommittee on Communications and Technology
U.S. House of Representatives**

**Hearing on Oversight of FCC Budget and Management
September 17, 2014**

Good morning Chairman Walden, Ranking Member Eshoo, and Members of the Subcommittee. My name is Jon Wilkins, and since November 2013, I have served as the Federal Communications Commission's Managing Director. My testimony today will focus on the Commission's management activities and how they relate to our budget and internal process reforms.

As Managing Director, I am the only employee at the FCC with a position mandated by the Communications Act. Section 5(e) defines my role as performing all administrative and executive functions delegated by the Chairman, who appointed me subject to the approval of the entire Commission. My primary function is the direction and oversight of the Commission's Office of Managing Director, or "OMD." This office includes 208 employees in six "associate" offices: Administrative Operations, Financial Operations, Human Resources Management, Information Technology (IT), Office of the Secretary, and Performance Evaluation and Records Management. On any given day, OMD employees work on a broad range of projects and operations, including developing and applying the FCC's budget, dealing with facilities management issues, procuring essential supplies, maintaining and improving the integrity of the FCC's IT systems, performing financial oversight functions for USF, and contributing to intra-agency task forces.

Immediately upon taking office, Chairman Wheeler identified FCC process reform as a priority management objective and set a 60-day deadline for drafting staff recommendations to achieve this goal. OMD actively participated in the intra-agency Staff Working Group led by Special Counsel Diane Cornell to produce the February 14, 2014 *Report on FCC Process Reform (Process Reform Report)*. The Staff Working Group started with the twin overarching goals of transparency and efficiency and then identified specific impediments to operational excellence, leading directly to a comprehensive set of recommendations focused on technical management changes such as modernizing our IT systems and recruiting, training, and supporting highly qualified staff. The *Process Reform Report*'s introduction specifically notes that "[s]ome of the [recommendations] are relatively straightforward and can be addressed quickly with current resources. Many of the suggestions would require the commitment of more extensive analysis and resources. . . ."

OMD has been hard at work supporting both the near-term and long-term implementation requirements for process reform. My office's focus has been on providing the internal budget, staffing, and employee tools to foster a productive work environment that encourages cross-agency communications, efficient use of resources, and the optimization of staff efforts. OMD activities have included: (1) identifying currently available resources to initiate IT upgrades as well as plan for long-term modernization; (2) reforming the consumer complaint process for an expected October launch; (3) making FOIA reports website-accessible; (4) transitioning to electronic filings instead of cumbersome paper filings; (5) improving the functionality of FCC.Gov; (6) providing support to bureaus so that they could close 1,500 dockets deemed appropriate for this action from a substantive perspective; and (7) continuing work on OPM contract efforts to design and implement a successful Human Capital Plan.

I discuss below the Commission's current budget and management status and outline some of the progress and challenges in implementing the *Process Reform Report's* recommendations, with a focus on budget, IT, and staffing.

Budget

The budget is the starting point for any effort to improve an agency's operations. Without adequate funding levels, we cannot provide sufficient staffing levels or the tools needed by our employees to carry out Congress' mandates. Budget development and financial operations involve complex activities to support both the FCC's daily operations as well as its long-term strategic objectives. As with any other agency, the FCC must work within the four corners of its statutory framework, as well as a host of other laws and regulations that affect our operations. In addition to working with our authorizing and appropriations committees, we are required to provide routine data to the Office of Management and Budget (OMB) and adhere to that agency's general financial oversight.

The Commission's Chief Financial Officer (CFO) directs the FCC staff handling all related accounting and budgetary analysis as well regulatory fee collections and Universal Service Fund financial oversight. OMD's CFO and his staff currently are completing activities related to the end of Fiscal Year 2014, while analyzing spending impacts of the expected Fiscal Year 2015 Continuing Resolution (CR) levels, and simultaneously developing the Fiscal Year 2016 budget. This process is especially challenging because we must plan a sound budgetary approach based on funding levels that will not initially be set until December of this year – or later – to support activities that will be carried out across three fiscal years.

When the Chairman and I arrived last November, we had to use the OMB-approved numbers to support newly established process reform goals and other objectives. In some cases, we reprioritized our objectives within the four corners of the budget presented to us to best pursue the managerial and operational goals of the current Chairman. The President's Fiscal Year 2015 budget requested \$375,380,313 for FCC operations, with \$11,090,000 specifically allocated to the Office of Inspector General (OIG). Meanwhile, the current FCC spending level (Fiscal Year 2014) is \$339,844,000, and it will remain at that level until at least December 11, 2014 under the CR currently being considered by Congress.

The requested increase in the FCC's budget falls into three basic spending categories identified by the Chairman during his testimony before the House and Senate Appropriations Committees: (1) increased inflationary costs for such items as rent, utilities and contracts, and personnel pay raises; (2) IT modernization to carry out reform mandates and support Commission mission objectives (addressed in more detail below); and (3) enhanced USF enforcement supported by 45 new FTEs and contractor support, at a cost of \$10.8 million, as part of an intra-agency USF Oversight Task Force to combat waste, fraud, and abuse, as well as ensure rigorous performance of our broader USF oversight responsibilities. On this last point, robust enforcement will return money to the Treasury and encourage compliance. More broadly, Chairman Wheeler has directed OMD to take steps to deliver enhanced oversight not only to protect the integrity of the program going forward, but also to deliver operational transparency and efficiency in the way USF funds are used.

The House Appropriations bill passed in July (H.R. 5016) provides \$322,748,000 for FCC operations but allocates the full OIG level, while the Senate provided the full \$375,380,313 funding request to the Commission, as well as the \$11M to the OIG. Flat funding since 2009, despite the growth in our operational costs, has challenged the FCC's ability to maintain current service levels. In addition, sequestration created a gap in our budget that not only challenged the FCC's ability to commit funds to basic programmatic needs, but also introduced budget uncertainties that made it difficult to pursue opportunities to invest in improved efficiency. For example, we see tremendous potential for the IT modernization strategy we have developed and requested support for in our Fiscal Year 2015 request. Executing this strategy, however, will require a sustained three-year effort by our IT team with sufficient budget support to match.

When we analyze and develop our budget we must also consider the impact of our spending levels on the industries that we regulate. Because the Commission's licensees pay the costs associated with our operations, we are careful to ensure that we assess "Section 9 Regulatory Fees" in a fair and equitable fashion. This fee review process is complex and labor-intensive, involving the long-term focus of highly qualified staff knowledgeable in accounting principles, as well as industry trends. During the past two years, OMD's staff has been reviewing the regulatory fee structure to update the Commission's payment scale. As a result, we have made numerous changes and improvements. The Regulatory Fee Order released on August 31, 2014 ended specific exemptions and brought industry apportionments more into line with market trends. Importantly, during the next year, we have raised the *de minimis* payment level to exclude those licensees owing less than \$500 from paying, thus permitting a break for small businesses and also helping the FCC realize cost savings for processing. These changes are expected to exclude approximately 2,500 small licensees.

The Commission also funds specific auctions activities through Section 309(j). Both the House and Senate Appropriations bills set a \$106 million cap for auctions spending for Fiscal Year 2015, but we cannot obligate above the Fiscal Year 2014 level of \$98 million for upcoming auctions under the anticipated Continuing Resolution. Overall, the Commission has raised \$53 billion for the Treasury in auctions revenues since 1994 – with \$1.56 billion of that coming from this year's H-Block auction. We have used 2.6 percent of this total amount for our auctions operations. Auctions are necessarily IT-intensive, and OMD works closely with the Office of General Counsel to ensure that attributable costs reflect auctions activities in that area as well as

in staffing and facilities use. Our auctions staff are truly the world's experts in spectrum auction theory and practice, making them an irreplaceable asset to the American people.

Information Technology

When the Chairman testified before the House and Senate Appropriations Committees in March 2014, he outlined the practical consequences of funding challenges. He focused on a number of operational issues and their potential impact on the economy. Importantly, the Chairman testified that maintaining the Commission's 207 legacy IT systems is less cost-efficient than modernizing systems. By then, the FCC's recently-appointed and highly qualified Chief Information Officer (CIO) was already mapping a detailed plan to effectuate real and lasting improvements to the FCC's IT infrastructure. Also, the *Process Reform Report* had called attention to the importance of modernizing the FCC's IT infrastructure. The *Process Reform Report's* findings made it clear that IT upgrades, including enhancing access to Commission data, improving cyber security, and additional related operational improvements are integral to the FCC's daily activities, and essential to ending wasteful spending on the maintenance of costly, outdated systems. Process reform is unsupportable without efficient, modern IT systems, and the lack of updated equipment undermines the very reforms that both the Chairman and this Subcommittee have championed.

In fact, the importance of funding and modernizing the Commission's IT infrastructure has been illustrated in stark relief by the processing delays and other systemic issues resulting from a dramatic increase in the volume of comments in a recent rulemaking proceeding. Our electronic comments filing system, which may have been state-of-the-art 18 years ago, is no longer able to cope with the world as it exists in 2014. And when your Committee asked us in June 2014 to put together docket and workload matrices, as well as develop activity and backlog snapshots, some of our bureaus were working from archived files in old systems while at the same time compiling and comparing data from new systems. Backlog reduction is perhaps one of the most IT-dependent of all process reform goals because it requires electronic systems and trained employees to get the most out of those systems.

This problem will only worsen without long-term, systematic changes. IT will continue to become more and more complex and integral to the FCC's work and core mission, requiring necessary upgrades and an enhanced staff. Importantly, the IT staff must become more sophisticated in their efforts to deal with system intrusions and cyber security issues. IT is not a luxury item or a tool to be traded by reducing qualified staff. It is probably the most important tool that our staff uses to carry out our mission. Moreover, cost savings will be realized through IT modernization and improving the ratio of qualified, permanent FTEs to contractors.

Here are some of our planned IT goals for the requested additional funding and the importance of making these investments:

- Improve Secure Telework and Mobility: This will enable the FCC to secure its workforce in the field, on travel and teleworking to maintain the security posture for the agency, business operations, and business continuity.

- Secure Internal & External Collaborations: The FCC must be able to assure collaborations internally and externally are both secure and productive, as well as act on the Chairman's and Congressional priorities with appropriate speed.
- Strengthen FCC's IT Security Posture: The FCC needs to implement the appropriate risk-based security controls and Internet filters to protect stakeholder data appropriately and protect the integrity of the FCC's mission.
- Transform Access to FCC Enterprise Data: The FCC must provide access to data in a transparent, timely, and usable fashion that enables effective telecommunications policy and informs the public.
- Modernize Legacy Systems and Tracking: The FCC is obligated to provide the ability to engage in effective, efficient, and transparent auctions and licensing processes that stimulate business activities for the national economy.
- Phase II FCC.gov Improvements and Consumer Complaint Reform: The FCC needs to build on previous website improvements to handle web-based inquiries and complaints in an efficient, effective, timely, informed, and actionable manner.
- Increase Transparency and System Usability: These changes will ensure stakeholders internally and externally will benefit from enhanced transparency and usability, increasing efficiency for all operations.

We have asked for \$18 million in funds to initiate a complete and thorough IT overhaul and modernization in Fiscal Year 2015. Our emphasis would be on long-term planning to alleviate the problems caused by 207 legacy systems – to consolidate to fewer systems, create efficiencies, enhance access to Commission data for all stakeholders, improve our website accessibility and system use for businesses and consumers, and most importantly, improve the environment for processing our workload. If the requested Fiscal Year 2015 resources become available, the FCC will take significant positive strides in our three-year modernization plan that will take us to entirely managed IT services and an effective, secure, off-premise cloud platform approach for all of our aging infrastructure that currently is housed at our Washington, D.C., Headquarters, while simultaneously improving the Commission's overall performance metrics.

Staffing

The FCC is a compact agency with most employees onsite at its Washington, D.C., headquarters. In addition, the FCC maintains laboratory, enforcement and public safety facilities in Columbia, Maryland; a licensing and consumer complaint facility in Gettysburg, Pennsylvania; and three regional and 24 field offices nationwide. The FCC relies upon seven bureaus with identified subject matter concentrations, which are supported by specific offices with expertise in engineering, economics, and administration. Bureaus and offices are not restricted to a type of personnel; most have support staff, para-professionals, economists, attorneys, engineers, and other professionals. Our employees are paid on the regular GS scale, and many are highly skilled technology professionals.

On July 21, 2014, the FCC submitted a report to the House and Senate Appropriations Committees in response to Public Law 113-76's Explanatory Statement directing the Commission to "submit a review of the current FCC organizational structure as well as a proposal for improvement that reflects today's technology landscape and competitive

marketplace.” This report summarized the FCC’s general staffing structure and provided a comprehensive outline of the Commission’s ongoing contract with the Office of Personnel Management Human Resource Solutions (OPM or OPM/HRS) to support FCC human capital planning efforts. Upcoming phases under the OPM contract include completion of a workforce analysis and development of a long-term Strategic Human Capital Plan.

Many of the initial contract findings are discussed in Chairman Wheeler’s March 14, 2014, answers to your Committee’s data and document request. The ongoing workforce analysis will examine the strength, composition, and deployment of FCC staff, including hiring and attrition trends in mission-critical occupations. OPM currently is scheduled to complete the workforce analysis, a key component of the Strategic Human Capital Plan, by the end of the year. The FCC’s work with OPM on the development of a long-term Strategic Human Capital Plan (Plan) will be completed later this year as well. The Plan will review the skill sets needed by the FCC to address its statutory responsibilities in the fast-changing technological environment that exists in the communications sector.

Overall, the FCC has been mindful of the need to continue to review and assess its workforce, update the FCC’s existing Strategic Human Capital Plan, and address recent Government Accountability Office findings regarding strategic human capital planning. Unfortunately, flat funding and sequestration have had a negative impact on the FCC’s ability to recruit and maintain a workforce capable of fully keeping pace with the highly sophisticated and technological nature of our work. In Fiscal Year 2011, the FCC had 1,776 FTEs or regular employees. By 2013 we had dropped to a 30-year low of 1,723, and we are still near that level. While some agencies have increased their reliance on outside contractors to supplement the work done by FTEs, the number of FCC contracting personnel also has steadily decreased by almost half since 2009. We are currently recruiting some positions to cover attrition, while maintaining our staff at 1,735 FTEs.

Conclusion

The Commission is engaged in a transformative process that will improve our internal management practices and foster operational excellence. As an agency completely reliant upon regulatory fees for our Salaries and Expenses Account, we are mindful of the importance of making every dollar count and providing our licensees with the best value for their money. At the same time, we are an agency mandated by Congress to be a caretaker of the public interest, and we must meet our obligations there by providing all consumers with the opportunity to participate in our policy-making activities. Today’s complex world requires us to meet these challenges with secure and efficient tools, of which a modern IT infrastructure is one of the most essential. The Commission requires the funding to modernize aging and inefficient legacy systems, and the flexibility to support these systems and other Commission mission goals with appropriate staffing. With adequate resources, staffing, and tools, I am confident the Commission will succeed in its goal of improving the efficiency, effectiveness, and transparency of our operations.

Thank you for this opportunity to discuss our management goals and aspirations. I look forward to answering the Subcommittee’s questions.

Mr. WALDEN. We will now go to Mr. David L. Hunt, who is the Inspector General for the Federal Communications Commission. Thanks for the good independent work you do.

Mr. Hunt, we look forward to your testimony.

STATEMENT OF DAVID HUNT

Mr. HUNT. OK, thank you, Mr. Chairman.

Thank you again Chairman Walden, and Ranking Member Eshoo, and members of the subcommittee.

Good morning. I appreciate the opportunity to come before you today to discuss issues pertaining to the management, operations, and budget of the Federal Communications Commission. I would like to take this opportunity to thank the committee for its continued support of our efforts, which has consistently been demonstrated by the approval of our budget.

My testimony today will discuss our oversight and investigative activities related to the FCC's major program areas. I will then discuss several areas of management and budget, and our oversight of these areas that merit attention and will conclude with a discussion of the challenges we face in providing efficient and effective oversight of the Commission.

Our annual audits of the FCC's financial statements have resulted in clean audit opinions for the past several years, and management has made improvements to the financial management of the FCC. However, our audits of the FCC's financial statements and information security have disclosed findings and resulted in recommendations for improvement to management, many of which are duplicated every year.

Lately we have conducted more audits of FCC's internal processes and procedures. These audits have disclosed generally acceptable results, but several bring to light serious deficiencies in FCC's practices. For example, we will soon issue a report on an audit of the FCC's management of civil monetary penalties that disclosed that the FCC has not collected all of the penalties and the fines it could have, and uncollected penalties have been carried on the agency's books for years, a few even for decades.

However, this internal focus has not caused any detriment to the oversight of FCC's programs, such as the Universal Service Fund and the Telecommunications Relay Service Fund because of increased efficiencies within OIG and support from other Federal agencies.

OIG annually submits a statement summarizing our assessment of the most serious management challenges facing the FCC. OIG is currently developing the fiscal year 2014 statement and we anticipate the areas of challenge to be similar to fiscal year 2013. In fiscal 2013 we noted the challenges continue to exist in the USF program, the TRS fund, and overall innovation at the FCC.

In the past 2 years, our investigatory staff has achieved impressive results securing numerous settlements and criminal convictions, thus protecting the integrity and quality of the programs the FCC oversees and generating hundreds of millions of dollars in savings and recoveries for the past several years.

The results of the investigative team's work are even more impressive in light of the fact that my efforts to expand the capabilities of this team by hiring criminal investigators has not been allowed. I will return to that topic momentarily, but I would first like to discuss some of my investigative team's accomplishments.

Since I last appeared before you we have secured our very first indictments and guilty pleas in the low-income program of the Universal Service Fund. This was an issue mentioned to me last time when I appeared before the committee. We have also obtained additional convictions related to fraud in provision of Video Relay Service, a program we have focused on for years, frankly, with remarkable results.

We are working alongside the FBI, DOJ, Department of Interior, Department of Education, in numerous criminal cases involving all of USF programs, but as these matters are ongoing, I cannot discuss too many in public at this time.

On the civil side, the OIG investigation's team is continuing its oversight of the E-Rate and other USF programs as well as Commission spectrum auctions to identify individuals and companies who may be engaged in activities to defraud these programs. In this regard we have initiated cases based on information developed in the first instance within the OIG as well as being assisted by the Department of Justice in numerous qui tam cases under the Federal False Claims Act.

Lastly, in addition to our programmatic work, OIG has a team of investigators that deals with allegations involving Commission internal operations. Our efforts have led to discipline including the dismissal or retirement of a number of Commission employees.

Over the years that I have been the IG, I have had generally a very good working relationship with agency management. However, there are several areas that still give me great concern. I have been trying for over 2 years to hire criminal investigators to continue to expand my ability to conduct criminal investigations and raised the issue with Chairman Wheeler. Management has so far refused to support these hires and precluded my ability to staff my office in the way that I see fit. I have already been informed that there is no support for OIG to hire criminal investigators. I continue a dialogue with OIG management, but to no avail.

In addition, FCC human resources have for several years retained the right to approve every OIG hire. My deputy IG, or my assistant IG for management must e-mail the chief of HR and ask permission for each hire, be it an auditor or attorney or even for administrative support. We have asked many times why this is necessary, and for this practice to end, but have received neither an explanation for, nor relief from this restriction.

The IG Act states that each Inspector General is authorized to select, appoint, and employ such officer employees as may be necessary for carrying out the functions, powers, and duties of the office. This statement is clear and unambiguous and authorizes IGs to make personnel determinations necessary for carrying out IG offices' responsibilities.

While in truth, with the exception of my request for criminal investigators, I have never been denied a hire, nonetheless manage-

ment's involvement in OIG personnel matters appears to be a direct contravention of the IG Act.

Further, every time one of my managers has to request permission from an FCC manager to hire someone, I believe our independence is impugned. This ongoing practice gives my office at the very least the appearance of a lack of independence from FCC management.

I would like to address one final area of concern. In July, FCC Chairman Wheeler announced the creation of a strike force to combat fraud, waste, and abuse in the Universal Service program. Many in Congress, Chairman Walden included, I believe, approved the creation of the task force and I, too, am pleased to see the FCC become active in reducing fraud within USF. However, this action was taken with no coordination from OIG and complications abound.

As my testimony this morning has demonstrated, FCC's OIG in recent years has had unprecedented success. We have been instrumental in effecting significant savings on consumers' telephone bills and significantly helped ferret out fraud from entire FCC programs such as the VRS. It might be best to expend FCC's valuable yet limited resources to bolster the IG's office, an entity with a proven track record that has established a track record with DOJ and the FBI, rather than one that is potentially encumbered by policymaking constraints and whose mission, as I understand it, is not limited to ascertaining rule violations.

Our concern is that the strike force, which does not independently report to Congress as I do, has a potential for unnecessary overlap in the agency's enforcement and investigatory efforts. That being said, we can all agree that expending additional resources to uncover fraud, waste and abuse may be a positive measure provided that the level of coordination between OIG and the strike force is extensive and delineated by each entity's responsibilities.

Because OIG is primarily engaged in law enforcement, all information gathered by the strike force should be provided to the OIG at the earliest possible opportunity. Failure to do so could negatively impact OIG's law enforcement efforts and potentially waste resources.

Thank you for the opportunity to address these important matters with this subcommittee.

I will be happy to answer all of your questions.

Mr. WALDEN. Mr. Hunt, thank you very much for your enlightening testimony. It sounds like there are some issues there that need to be prosecuted.

[The prepared statement of Mr. Hunt follows:]

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Written Statement of

DAVID L. HUNT

INSPECTOR GENERAL

FEDERAL COMMUNICATIONS COMMISSION

Before the

SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY

Of the

COMMITTEE ON ENERGY AND COMMERCE

UNITED STATES HOUSE OF REPRESENTATIVES

On

OVERSIGHT OF FCC BUDGET AND MANAGEMENT

September 19, 2014

Major Points of Testimony

- FCC OIG has appreciated the resources given to it by Congress, and continues to strive to make the best possible use of these resources by expanding our resources and our oversight program.
- Audits of the FCC's financial management and operations have disclosed deficiencies, in some cases deficiencies that repeat year after year.
- Our audits of the Universal Service Fund and the Telecommunications Relay Service Fund have resulted in criminal convictions and hundreds of millions of dollars in savings and recoveries.
- OIG's investigations of internal operations have resulted in referrals to management for action and the dismissal or retirement of several employees.
- The IG has generally had a good working relationship with the FCC, but several concerns exist.
- The FCC has refused to allow the IG to hire criminal investigators despite the authority granted to the IG in the IG Act of 1978, as amended.
- Criminal investigators are a very much needed resource at this Office, to increase its ability to conduct criminal investigations without consuming the resources of DOJ and the FBI.
- Further, FCC management retains a right to approve all OIG hires, a requirement which appears to contravene the IG Act and impugn the independence of the OIG.
- The newly established USF Strike Force in the FCC's Enforcement Bureau, while having the potential to make a positive contribution to oversight of the USF, also gives the IG concerns that efforts might be duplicative and resources wasted.

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to come before you today to discuss issues pertaining to the management operations and budget of the Federal Communications Commission (FCC, or Commission). I have been the Inspector General at the FCC since June 2009, first in an acting capacity and in a permanent role since January 2011. I am pleased to say that since I last appeared before this Committee in February, 2012, OIG at the FCC has been provided resources that have enabled us to make significant strides in providing oversight of the FCC and its programs. I would like to take this opportunity to thank the Committee for its continued support of our efforts as has consistently been demonstrated by your approval of my budget requests.

In my testimony today I will discuss our oversight and investigative activities related to the FCC's major program areas. I will then discuss several areas of management and budget at the FCC that merit attention, and will conclude with a discussion of the challenges we face in providing efficient and effective oversight of the Commission.

Administrative

Our Office currently has a permanent staff of 39 professionals and administrative staff. As you are aware, several years ago Congress provided us with funds for oversight of the Universal Service Fund (USF) and we hired several temporary employees with those funds. The terms for all of those employees have expired, and we are now building a staff of diverse and experienced personnel. Recently, we have added technical expertise by hiring a computer forensics examiner, an IT specialist and a contract specialist. We have also hired several auditors and

attorney investigators. While our budget, currently a little over \$11 million dollars, has been somewhat flat between 2014 to the 2016 request, the additional funds we were allocated in the years prior to now have enabled us to build into a structure that is poised to accomplish great things in terms of oversight and investigation. Our current hiring plans include three more auditors, two more attorneys, and two criminal investigators. However, some of these plans have been significantly delayed, as I will discuss later in my testimony.

Audits

Due to recent new staff and an expansion of resources available to us, our Office of Audit has steadily ramped up an active audit program of internal FCC operations and external programs.

My Office performs three statutorily mandated audits annually – the audit of the FCC’s Consolidated Financial Statements, the evaluation of the FCC’s information technology security required under the Federal Information Security Management Act (FISMA), and an audit of FCC compliance with the Improper Payments Elimination and Recovery Act (IPERA). The FCC has received “clean” audit opinions for the past several years and management has made improvements to the financial management of the FCC. However, each of these audits have disclosed findings and resulted in recommendations for improvement, many of which are duplicated year after year. In particular, the financial statement audit and the FISMA evaluation seem to always result in the same deficiencies regarding financial integration and information security each year.

In the past year or so, we have shifted our audit efforts somewhat. In prior years, we had focused our limited audit efforts on the USF and the Video Relay Service (VRS) for the deaf and hard of hearing, auditing funding recipients and contributors of these major programs. Lately, we have conducted more audits of FCC internal processes and procedures. These audits have disclosed generally acceptable results, but several bring to light deficiencies in FCC practices. For example, we will soon issue a report on the FCC's management of civil monetary penalties that has disclosed the FCC has not collected all of the penalties and fines it could have, and that uncollectible penalties have been carried on the agency's books, sometimes for many years and a few even for decades. Recent audits of Bureau and Office functions have resulted in recommendations for improvements and provided my auditors with leads for internal audits for years to come.

However, this increased internal focus has not caused us to forego oversight of FCC programs such as the USF and the Telecommunications Relay Service (TRS) Fund. Changes in all of the USF programs, including contributions, along with implementation of the Connect America Fund will require a significant investment of Commission resources and oversight from OIG. The Office of Audit has ongoing audits and is supporting investigations addressing allegations of fraudulent activity in the USF. To assist in meeting these challenges, the Office of Audits is redirecting resources to conduct performance based audits to better determine the effectiveness and efficiency of these programs.

In accordance with the Reports Consolidation Act of 2000, the OIG annually submits a statement

summarizing our assessment of the most serious management challenges facing the FCC. The OIG is currently developing the FY 2014 statement and we anticipate the areas of challenge to be similar to FY 2013. In FY 2013 we noted that challenges continue to exist in the USF program, the TRS Fund, and overall Innovation at the FCC. During OIG audits and investigations, we have worked with FCC managers in recommending actions that best addressed those challenges. The FCC depends upon its information systems and the information within them to effectively and efficiently accomplish its mission. Additionally, the FCC, along with the rest of the federal government, is being asked to use technology to a greater extent in order to reduce costs and, at the same time, achieve greater productivity, for example, moving to cloud computing. One of the major challenges with this rapid change is the proper implementation, management, and oversight of these new technologies, which have inherent, and constantly evolving, information security risks.

Investigations

In the past two years our investigatory staff, has achieved impressive results, securing numerous settlements and criminal convictions, thus protecting the integrity and quality of the programs the FCC oversees. These activities, coupled with the implementation of policy and procedural changes recommended by OIG have generated hundreds of millions of dollars in savings and recoveries in the past several years. The results of the investigative team's work are even more impressive in light of the fact that my efforts to expand the capabilities of this team by hiring criminal investigators have been stymied by the FCC. I will return to that topic momentarily, but now I would like to discuss some of my investigative team's accomplishments.

Since I last appeared before you, we have secured our first indictments and guilty pleas in the Low Income Program of the USF. The Low Income Program is designed to ensure that quality telecommunications services are available to low-income customers at just, reasonable, and affordable rates, and our office has aggressively been pursuing matters involving fraud in this program for many years.

Additionally, we have added to the number of criminal convictions related to fraud in the provision of VRS. You may recall that OIG, in partnership with the Criminal Division of the Department of Justice (DOJ), the Federal Bureau of Investigation (FBI) and the Postal Inspection Service, successfully prosecuted over two dozen individuals for their role in various schemes to defraud the VRS Fund.

The deterrent effects of these criminal enforcement efforts, and the ensuing rule changes, recommended and supported by OIG, have continued to keep the size of the VRS Fund relatively stable since it saw a dramatic reduction immediately following the initial convictions, following years of consistent and almost exponential growth. This is an example of how investigations combined with the audit function can stem fraud before it occurs.

We are working alongside the FBI and the DOJ in numerous criminal other cases involving virtually all of the USF programs, but as these matters are on-going, I cannot discuss them in public at this time.

On the civil side, the OIG investigations team is continuing its oversight of the E-rate and other USF programs as well as the Commission's spectrum auctions, to identify individuals and companies who may be engaging in activities that to defraud these programs. In this regard, we have initiated cases based on information developed in the first instance within OIG, as well as assisted the Department of Justice in numerous *qui tam* cases brought under the federal False Claims Act.

Lastly, in addition to our programmatic work, OIG has a team of investigators that deals with allegations involving internal Commission operations. The group also handles the initial intake of allegations received via the OIG telephone and e-mail Hotlines. The team looks into allegations of waste, fraud and abuse, including, but not limited to, allegations of (1) ethical violations; (2) improper hiring practices – the subject of a report in a recent SAR; (3) time and attendance abuse; (4) misuse of computer property, including misuse of Commission computers; and (5) failures in the contracting process. The majority of personnel-related and management-related findings are referred to management for appropriate action. Since I last appeared before you, the team's work has been instrumental in investigating matters that have resulted in the dismissal and/or retirement of several employees.

Relationship with the FCC

Over the years I have been the IG at the FCC, I have generally had a good working relationship with agency management. However, there are several areas that give me concern and I would like to discuss with you.

We initiated a discussion with management on hiring criminal investigators at FCC OIG in early 2012 and continued this discussion with current management since Chairman came on board. This is a capability very nearly all OIGs have; those who do not are typically those with less staff. The expansion our Office has experienced has provided us with both the need for and the ability to support these resources, which are critical to investigations of allegations of fraud and criminal activity.

Although the FCC OIG has received excellent support from FBI agents, particularly those in the Washington, D.C. Field Office, there have been cases where the lack of criminal investigative support has slowed and even derailed OIG investigations. FBI agents and Assistant United States Attorneys are in constant demand, and we have lost the services of both to other DOJ/FBI priorities. We have informally been told that the threshold for the FBI involvement is \$1,000,000. Many of our cases, especially those that involve smaller providers, do not reach that threshold. However, if we were to have the support of criminal investigators, we could develop a case to a further point on our own rather than consume DOJ and FBI resources. We would have the ability to pursue more cases to determine with certainty whether a case merits further prosecution, rather than abandoning investigations at the outset because we do not believe they ultimately will meet the FBI threshold. This capability would improve our ability to support criminal investigations and would likely obtain DOJ support for lower value cases.

Criminal investigators would be particularly helpful in pursuing fraud in the Low Income and E-rate programs. Recently, we have seen a low income case hampered because it took several months to garner the support of the FBI, during which time the targets have had an opportunity to move assets to foreign accounts and to leave the country.

Additionally, because criminal investigators may, in appropriate circumstances, be armed, OIG investigators will be able to securely enter premises to interview witnesses in situations where it may be unwise to do so without the assistance of the FBI. We are currently facing such a circumstance in a pending E-rate matter where we have been advised not to conduct interviews because of possible safety concerns.

After an excessively long dialogue with managers under then-Chairman Genachowski, we had reached a point where we posted a job announcement and had applications for investigators positions. However, after Mr. Genachowski left, Human Resources at FCC would not allow us to interview and hire criminal investigators from this announcement. Very shortly after Chairman Wheeler took his office, I was informed by his Chief of Staff that OIG would not be allowed to hire criminal investigators. I have continued a dialogue with management, but to no avail.

In addition FCC Human Resources has for several years retained the right to approve every OIG hire. My Deputy IG or my Assistant IG for Management must email the Chief of HR and ask permission for each hire, be it an auditor or attorney, or even an administrative support employee. We have asked many times why this is necessary and for this practice to end, but we have received neither an explanation for, nor relief from, this restriction.

The IG Act states each Inspector General is authorized “to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office.” (§6(a)(7)) This statement is clear and unambiguous, and authorizes me to make personnel determinations necessary for carrying out my Office’s responsibilities. While, in truth, with the exception of my request for criminal investigators, I have never been denied a

hire, nonetheless, management's involvement in OIG personnel matters appears to be a direct contravention of the IG Act. Further, every time one of my managers has to request permission from an FCC manager to hire someone, our independence is impugned. This ongoing practice gives my Office the appearance of a lack of independence from FCC management.

We intend to continue our dialogue with the Office of the Chairman in our on-going attempt to hire criminal investigators, but it appears destined to be a fruitless discussion.

I would like to address one final area of concern. In July, FCC Chairman Tom Wheeler announced the creation of a "strike force" to combat waste, fraud, and abuse in Universal Service Fund programs. Many in Congress, Chairman Walden included, cheered the creation of this task force, and I too am pleased to see the FCC become active in reducing fraud in the USF. However, this action was taken with no coordination with either OIG or DOJ, and complications abound. As my testimony this morning has demonstrated, the FCC's OIG in recent years has had unprecedented success. We have been instrumental in affecting significant savings on consumer's telephone bills, and have significantly helped ferret out fraud from entire FCC programs such as VRS.

It might have been best to expend the FCC's valuable yet limited resources to bolster the IG's office, an entity with a proven track record that has established relationships with both DOJ and the FBI, rather than one that is potentially encumbered by policy-making constraints and whose mission, as I understand it, is not limited to ascertaining rule violations. Our concern is that the strike force, which does not independently report to Congress, has the *potential* for unnecessary overlap in the agency's enforcement and investigatory efforts.

That being said, we can all agree that expending additional resources to uncover fraud, waste and abuse may be a positive measure provided that the level of coordination between OIG and the Strike Force is extensive and delineated by each entity's responsibilities. Because OIG is primarily engaged in law enforcement, all information gathered by the Strike Force should be provided to the OIG at the earliest possible opportunity. Failure to do so could negatively impact OIG's law enforcement efforts and potentially waste resources.

Conclusion

We have been and we continue to be grateful for the support we have received from both Congress and the FCC. I will continue to work with the FCC and foster good government and cooperation whenever we can. I will also continue to guard the independence of my Office and our adherence to the letter and the intent of the IG Act.

Thank you for the opportunity to address these important matters with the Subcommittee. I will be happy to answer any of your questions.

Mr. WALDEN. I am going to start with a question for Mr. Wilkins regarding the Web site because we have talked a lot about it. And frankly, as an old broadcaster, I found the FCC Web site to be worse than useless. You could never get the information out of it you were seeking. You had to hire somebody who could figure it out at a very high rate. I don't know how all of that works, but it is a mess. I am not sure it has gotten any better. But we sure spent a lot of money. I saw that there was like a \$400,000 contract issued for initial work. Is that right? I mean, how—

Mr. WILKINS. Yes.

Mr. WALDEN. How much do you intend to spend in total on this overhaul? And when do you think it will be up and running? I mean, we have dealt with some other Web sites on this committee unrelated to the FCC. It doesn't seem like the government has got a good track record on this. What can you tell me?

Mr. WILKINS. OK. So the current plan for the Web site, as I actually mentioned in my oral statement, we do have work underway. We have got it divided into two phases.

First phase has already started under that \$400,000 contract. That work is to fundamentally improve the search function, which I think, if we have to fix one thing soon, it is that. The search function is how you find information.

Mr. WALDEN. Yes, which doesn't work worth a—

Mr. WILKINS. So we are going to improve the search function.

Mr. WALDEN. Sorry.

Mr. WILKINS. And redesign the user experience to work better. And we have heard loud and clear that despite some of the previous improvements that were made to the back end systems, to the users that was not working—

Mr. WALDEN. Worthless.

Mr. WILKINS. So, phase one is to redesign that interface to improve the actual search capability that is live.

And then phase two will be the first half of the next year that will make that a live new version of the Web site.

Mr. WALDEN. All right. According to the OPM Web site the revising of Intergovernmental Personnel Act, IPA's intended facilitate cooperation between the Federal Government and certain non-Federal entities. For example, State and local governments and institutions of higher education. Basically, this allows the Federal Government to borrow employees as long as the government reimburses the current employer for their costs. Isn't that correct?

Mr. WILKINS. Yes.

Mr. WALDEN. So now, the FCC has utilized this mechanism as I understand it. In response to one of our inquiries it appears that there were two IPAs leading up to 2009. In 2009 that number jumped to 12, and the cost for IPAs starting in 2009, has been approximately \$3 million for 12 people.

The cost to the agency for some of these folks well exceeds the salary permitted for either traditional GS employees or those Federal employees in Senior Executive Service. For example, we found that the cost for one individual was \$208,345.89 per year. But perhaps the most egregious was an economist we understand the FCC paid \$396,878.68 for 8 months of work. Now, that appears to be an

annual salary of nearly \$600,000 for an economist out of the academic world.

Where do these funds come from to pay for the cost? Were any of these individuals from State or local government? And are these counted as FTEs, so that the agency actually has more FTEs than the number that it is reporting?

Mr. WILKINS. Well, today we have three IPAs in place.

Mr. WALDEN. That is it?

Mr. WILKINS. Three.

Mr. WALDEN. All right.

Mr. WILKINS. One is for our chief technologist who just came on board very recently. One is for our chief economist, and one is a senior advisor to our rural healthcare task force that we have just launched.

Mr. WALDEN. Right.

Mr. WILKINS. I don't have the exact figures, but the cost for those three is closer to, I think, \$500,000 total for——

Mr. WALDEN. For all three?

Mr. WILKINS. For three of them in total.

Mr. WALDEN. All right.

Mr. WILKINS. I think that our approach to those IPAs, we only want to do it where it really is external expertise, cutting edge——

Mr. WALDEN. Right.

Mr. WILKINS [continuing]. That frankly is hard to bring into the government, especially—so our chief technologist is a good example. Federal Government can be a great career path, but if you are interested in being on the very cutting end of technology and academic research——

Mr. WALDEN. Right.

Mr. WILKINS [continuing]. There may be better places in the academic sector, or the private sector. So the idea of the annual or maybe 2-year IPA to bring in that kind of talent we think works and we are trying to make only in the most focused way.

Mr. WALDEN. Is the IPA process a sole-source contracting? Does somebody in the agency—does Mr. Wheeler or some other commissioner say I want Mr. Hunt to work for me, as opposed to the contracting process where it is more open and transparent?

Mr. WILKINS. Yes, I mean, there is not a competitive bidding process in the same way. It is more akin to a senior talent recruitment and the IPA is the way that you can——

Mr. WALDEN. So you go pick somebody, pay them whatever——

Mr. WILKINS. Of course, we want to do that based on very legitimate——

Mr. WALDEN. One other question. What is the agency's retention policy per e-mails? Has this come up in other agencies over time. I believe it is 90 days?

Mr. WILKINS. We, right, so for a user, the user's live e-mail account, and if you are just a user at your desktop, you can go back 90 days. We certainly do have backup that is done by our IT organization and can go back longer as needed.

Mr. WALDEN. So those are retrievable beyond 90 days back? Because some of the agencies, processes stretch over years.

Mr. WILKINS. Yes.

Mr. WALDEN. And so we just want to make sure that those e-mails—

Mr. WILKINS. We have a backup capability that is essentially just limited by the funding that we have for our storage contract. It definitely goes back at least a year.

Mr. WALDEN. A year.

Mr. WILKINS. At least a year. Yes.

Mr. WALDEN. Do you think it should go back as far as the proceedings are open?

Mr. WILKINS. Well, I think we want to be sure that we are appropriately preserving government records.

Mr. WALDEN. As required by law.

Mr. WILKINS. Yes, and we, obviously, want to make good efficient use of, the cost to store them and just keep that balance right.

Mr. WALDEN. And what is the policy for employees that use personal e-mails for official business, because this has come up elsewhere in the government?

Mr. WILKINS. Oh, obviously your government FCC e-mail account should only be used for work.

Mr. WALDEN. No, but the problem is personal accounts are being used by some in the agency to conduct official business, so it is not showing up in the—

Mr. WILKINS. I mean, obviously, if you are using—

Mr. WALDEN. Do you have a policy on that?

Mr. WILKINS. Yes, if exigencies require you to use your personal e-mail for some reason, you need to make sure that you then retain it and bring it into the appropriate—

Mr. WALDEN. Mr. Hunt, is that something that you keep an eye on?

Mr. HUNT. Yes, Congressman. Yes, Mr. Chairman, we do.

And we actually did take a look—I don't know if you have a question for me about, these sole source contracts, we did do an inspection, and the FCC has made some changes because we did find issues with the way they were retaining people; that they were not following FAR requirements to awarding sole-source contracts. The FCC concurred with our inspection report and our recommendations and now they have initiated corrective actions so we have looked at that in the past.

Mr. WALDEN. All right. That was on sole source. With deference to the committee, can you answer the part about e-mails to personal? Because we are seeing this in other agencies where government officials, to keep it out of the public record, are using their personal e-mails.

Mr. HUNT. We do look at, for instance, individuals who are doing business within the FCC, an individual business, and using it for personal e-mails. The issue is we don't have as much access.

Mr. WALDEN. I am flipping it around the other way. It is not that some individuals do an occasional e-mail using their official account for personal business.

Mr. HUNT. I am sorry.

Mr. WALDEN. On the other way around. Are they offline, in effect, using a personal e-mail account to conduct official business so that it gets around the rules of the—

Mr. HUNT. Oh, I am sorry. I am sorry. No, we don't—we haven't looked—we have looked at that thing in the past. We haven't looked at that lately.

The problem is technology. Do we have the technology to look into that? The FCC—I am sorry, the FCC runs the network. We don't have an independent network of our own to look into issues like that.

Mr. WALDEN. Yes. I would just be interested in your formal policy if you could provide it. I know I am way over my time.

Thank you, gentlemen, for the work that you do.

I will turn now to my colleague from California Ms. Eshoo.

Ms. ESHOO. Thank you, Mr. Chairman.

So that means I have 8 minutes, right? No, I am teasing. I know that won't be the case and it doesn't need to be.

Thank you to both of you for your testimony.

What I am interested in is what, actually, you are doing and how you are using your money, both of you.

Mr. Wilkins, relative to being managing director and making sure that you are pushing things through that need to be done in an efficient, effective way.

Mr. Hunt is saying that there needs to be more and I think that you are extraordinarily focused on criminal investigations.

Now, I have stated before what I have, the critical role that IGs play across the government. Now, I understand that the OIG received \$21 million, and \$25 million directly from the Universal Service Fund in 2008, 2009 respectively, to fund investigations. That is a lot of money. That is a lot of money for—this is a relatively small agency. I mean, this is not a gigantic agency and those amounts were also exempt from sequestration cuts. So you come out very well in terms of, at least in my view, in terms of dollars.

And unlike the Commission, you are permitted to carry forward these dollars year after year. That is my understanding.

So my first question is, how much money do you have on hand?

Mr. HUNT. Well—

Ms. ESHOO. And how many employees do you have?

Mr. HUNT. We have 39 permanent employees.

Ms. ESHOO. You have 39. And how much cash on hand do you have right now?

Mr. HUNT. Well, first of all I have to correct something.

Ms. ESHOO. Yes, do it fast, because I—

Mr. HUNT. OK, we have the \$21 million. When I became the acting IG, I turned down the additional \$25 million. I said, we don't need it. We can't spend it fast enough and that was—that money was—

Ms. ESHOO. So from 2008 through 2009 you operated on \$21 million?

Mr. HUNT. No, no, this is in addition to our regular budget.

Ms. ESHOO. I understand. I understand. That is why I am raising it because I think the committee members need to understand this.

But at any rate, so you turned back the 25, you operated on the 21, plus the other dollars that you had to operate on. So—and you can roll money forward.

That is why I was asking: How much do you have on hand?

Mr. HUNT. I think what we have left is maybe \$5 million.

Ms. ESHOO. OK.

Mr. HUNT. Most of that way money was spent by the prior—

Ms. ESHOO. Given the recent increases in your funding, even though you turned some back—I don't know why you did.

You are saying you have a lot of work to do but you turned money back, I don't get that, but that is what you did—what have you—can you describe what additional work you have conducted, for example, there has been a spike in criminal prosecutions during that time frame, or immediately following, and what I am really stuck on is where the agency has not done well at all.

You have your eye on criminal investigations. You keep talking about it. It is like a broken record and you feel strongly about it. But I want to dissect that because we have huge agencies that do criminal investigations. The DOJ is very well funded. The FBI is well funded. What is it that you can't partner with them to do that is leaving huge gaps and unaddressed investigations on your part? And as succinct as possible. Why does there have to be duplication in these agencies?

Mr. HUNT. Right, I mean, let me say one thing really briefly so everybody understands.

Ms. ESHOO. I just want you to answer my question because I have other questions.

Mr. HUNT. OK. OK. To get FBI agents, DOJ agents, I mean, and Interior agents to help us out is very rare. They have a threshold. They have more people helping us out than before, but we have much more fraud and waste than we can tackle with the 39 people we have.

You are talking about \$20 billion that you are asking 39 people to try to monitor. And oftentimes, we can't get support from the FBI because they simply don't have enough agents out there to help us. So we end up dropping cases worth \$1 million or less because we don't have—

Ms. ESHOO. What are the cases worth, though?

Mr. HUNT. Pardon?

Ms. ESHOO. What are your cases worth? Are you talking about \$20-, \$40-, \$50 million cases? Are you talking about \$1 million? Are you talking about \$35,000? What kind of dollar value do these cases have?

Mr. HUNT. Of, the cases go—I mean, we have cases under \$1 million, in which case, DOJ and FBI won't touch them.

Ms. ESHOO. Yes, and I don't blame them. It is not worth it.

Mr. HUNT. And then we have cases over \$100 million and everything in between.

Ms. ESHOO. Unfortunately my time is up. I have a lot of questions and maybe we can have another round.

My point in pressing this with you is not to diminish what needs to be done in terms of investigations, but I think that there are other areas that are really essential for you to be putting the pedal to the metal on. And I mean, for a whole system to crash, an IT system at an agency that is in charge of communications, where are you on that?

So both of you, but that is why I am pressing on this, and I don't know if this is a well-sought avenue for you. I really think that you

should be working with the other agencies and not duplicating it and you have got the money too.

So at any rate, thank you, Mr. Chairman.

Mr. WALDEN. Mr. Hunt, did you have anything that you wanted to respond to that?

Mr. HUNT. I appreciate everything that the chair—the Congresswoman is saying, but—

Ms. ESHOO. Be sincere. No.

Mr. HUNT. No, I don't think—I really have to disagree. I don't think we are duplicating efforts.

We are trying to get as much help as we possibly can. We go all the time. Sometimes we have to call local law enforcement to go with our agents so our agents don't get hurt in the field. And if we can't get local law enforcement to help us—we have had guns pulled on us before.

Ms. ESHOO. If there are criminal threats to people in the OIG, we need to know that. We need to know that. I don't know where you are going with this. It is either, what some attorneys would consider, in terms of money, kind of two-bit cases, or are people's lives being threatened? That is a huge range, spectrum, so—

Mr. WALDEN. I think he was just saying they have had guns pulled on them.

Ms. ESHOO [continuing]. Maybe you could answer that to the chairman.

Mr. HUNT. So much money, like, it is \$20 billion involved here, and we don't have a single criminal investigator to help us look at them.

So we have to—we do go to other agencies. We go to Interior. We go to FBI. We go to local law enforcement. We go to the Department of Education. We borrow their agents all the time because we don't have any. But they don't have enough to do all of the work that we have to do. We have got much more money, many more cases, than we possibly have the staff to handle right now.

Mr. WALDEN. All right, Mr. Hunt, thank you.

We are going to go now to the gentlelady from Tennessee, the vice chair of the full committee Ms. Blackburn for 5 minutes.

Mrs. BLACKBURN. Thank you, Mr. Chairman.

And I want to thank each of you for being here.

Again, Mr. Wilkins, you are basically the chief operating officer, right?

Mr. WILKINS. Yes, ma'am.

Mrs. BLACKBURN. OK, well, let me ask you this: We will stay with the same of how you use the resources and the money, the taxpayer's money that you are given to work on.

And Mr. Hunt, I have to tell you, I like the fact that you sent money back and said we don't need all of this. I appreciate that and I can guarantee you, my constituents like it when they hear that a Federal agency would send some money back; that they are just not out there willy-nilly spending money because they can. They get tired of that.

Mr. Wilkins, let's talk about this strike force because this is something that caught my attention and to me, it sounds like it is duplicative. So tell me why it would not be duplicative, and why you need a strike force when you have got the IG's office?

Mr. WILKINS. We don't see the strike force as an either/or with the IG. Oversight of Universal Service Funds involve the whole spectrum of issues from direct criminality, to egregious rule violations, to more pedestrian rule violations.

I think that it has always been clear that there is an overlapping mission between the IG's office and the enforcement bureau staff and I think Chairman Wheeler's direction is, he wants the enforcement bureau doing more of its part. Absolutely, we need to coordinate duplication, I completely agree is not what we want. And I actually, what I have heard so far is that since the strike force is just really set up over the last couple of months, it only has three employees, there really has been quite good coordination so far.

Mrs. BLACKBURN. OK, would you recommend eliminating the strike force?

Mr. WILKINS. No, absolutely not.

Mrs. BLACKBURN. Say you have a tight budget, would you say we can eliminate this?

Mr. WILKINS. Well, most of the funding for the strike force is actually is dependent on our going-forward request.

Mrs. BLACKBURN. OK, does Chairman Wheeler have a lack of confidence in the IG's office?

Mr. WILKINS. No. To the contrary, I think that the work the IG has done shows that there is—I think the Inspector General actually agreed, there is plenty of work to do.

The most important thing is the Universal Service is going through so many changes, we think the challenges are going to grow.

Mrs. BLACKBURN. Maybe we need to do away with it.

Mr. Hunt, you want to weigh in on the strike force?

Mr. HUNT. I think what I was just saying earlier kind of proves my point. There would not be a strike force except for there is so much fraud, waste, and abuse out there.

But the strike force is not limited just to enforcement bureau actions. It is not limited to changing rules which is what we can't do. What we are seeing in our office is that the FCC should focus on changing the rules and closing loopholes and then we will do the criminal enforcement part.

But they have now created this new group which they will not say will not do criminal work, and——

Mrs. BLACKBURN. So they are using it.

Mr. HUNT. I am sorry, but the Department of Justice has called our office up and they are concerned. They have gotten calls from the strike force.

Mrs. BLACKBURN. OK, so, let me be sure we are clear on this. So the strike force is, in essence, usurping your authority and some DOJ authority, and there is a blurring of who is responsible for what? Is that a fair assessment?

Mr. HUNT. That is the way the IG's office feels——

Mrs. BLACKBURN. OK.

Mr. HUNT [continuing]. Feels the way it is, because in DOJ's concern——

Mrs. BLACKBURN. OK.

Mr. HUNT [continuing]. Because they are being contacted by the strike force and then calling us and saying, who is in charge here?

Mrs. BLACKBURN. OK, that helps.

All right, Mr. Hunt, let's talk about some of the waste, fraud, and abuse that is apparent that we all know exists. And that is this Lifeline program, or as it has become commonly known in the last few years, the ObamaPhone program.

Consumers, telecommunication consumers pay for this. And we hear complaints about this all the time, and the growth of this program from \$800 million in 2005 up to \$2.2 billion now. And we have seen this program really become a symbol of mismanagement of USF and the FCC as a whole, kind of this picking and choosing what kind of mismanagement you are going to allow.

Now, last year it was discovered that there were over 2 million fraudulent subscribers in this program. So will USF strike force focus on eliminating waste, fraud, and abuse from this failed welfare program?

So Mr. Hunt I want to hear from you first, and then Mr. Wilkins.

Mr. HUNT. Well, I have I—thank you for the question, Congresswoman. I have no control over the strike force so what they do or don't do, I have no idea.

I know we are working on low income. We not only do criminal law, but we do USF. We do every single program within the USF fund. And one of those is low income. And like I said in my opening statement, we have gotten our first criminal convictions. When you get criminal convictions, it helps quell, once people know they can go to jail for things, it helps stem the tide of more crime.

But we have two people, two people in the entire office that are focused solely on low income, and for the numbers you are talking about, we don't have that many people. We are doing what we can with the people that we have.

Mrs. BLACKBURN. All right.

Mr. HUNT. And part of the \$21 million we had was spent to help that.

Mrs. BLACKBURN. Mr. Wilkins, what are you going to do about it?

Mr. WILKINS. The Lifeline example, I think, really demonstrates what the role of the strike force ideally would be.

So the lifeline cases involve exactly that combination of direct criminality on fraudulent operators, but also a lot of rule violations that need to be aggressively enforced. I think that what I have been told for the coordination so far has been good.

My understanding is that there are actually two cases that the strike force, the IG, and the Department of Justice are working on jointly as we speak; that there actually has been good coordination. If that is not true, I will definitely follow up on that.

But Lifeline is the perfect example. It is a transition of that program to mobile communications, new rules, lots of opportunity for fraud, and a joint effort really is important to crack down on it.

Mrs. BLACKBURN. All right, yield back.

Mr. WALDEN. Thank the gentle lady.

We turn now to the gentleman from Ohio, the vice chair of the subcommittee, Mr. Latta, for 5 minutes.

Mr. LATTA. Thank you, Mr. Chairman.

And, gentlemen, again, thanks very much for being with us this morning.

Mr. Hunt, if I could start my questions with you. In your most recent report to Congress, you identified two significant deficiencies related to the FCC's new financial system, which was implemented in October of 2010. According to the report, functionality and integration issues continue to exist, and as a result, certain activity continues to be processed manually in order to maintain the accuracy of the system data.

You also noted that there are security deficiencies in these IT systems. The report notes that these deficiencies have been identified by audits over the course of the last several years.

Would you say it is fair to say that the new system didn't fix the problems that it was intended to correct?

Mr. HUNT. Congressman, we did have those findings. We believe they are trying to upgrade and fix, but to have, in this day and age, manual entries when so much money has been spent on computer technology and information technology, to have people have to look and hand write items in just does not seem like a fair use of time.

Mr. LATTA. If I could follow up with that, then, how much money has been spent if it doesn't sound like it has been corrected?

Mr. HUNT. I would have to look that up for you. I can get that information.

Mr. LATTA. If you could get that back to the subcommittee, that would be good.

And in your audits that you have also continually flagged these problems. Is that correct?

Mr. HUNT. Pardon, sir?

Mr. LATTA. And with your audits that you have been conducting, you have continually flagged these problems that have been occurring?

Mr. HUNT. There are several audit findings that the FCC agrees with that occur year after year.

Mr. LATTA. Could you say when the first year was?

Mr. HUNT. Oh, my goodness.

Mr. LATTA. You say year after year.

Mr. HUNT. We are asked every year by Congress to give a list of recommendations that haven't been completed or fixed. I could find that list and give you—

Mr. LATTA. Yes. If you could get that to us, we would appreciate it.

And also in one of your more recent reports you indicated the commission was not in compliance with the Federal Manager's Financial Integrity Act because of these deficiencies. Is that correct?

Mr. HUNT. Yes, sir. That is correct.

Mr. LATTA. OK. And your office has also described these significant deficiencies as functionality and integration issues.

How much has this new system cost so far?

Mr. HUNT. Again, Congressman, I would have to look that up for you.

Mr. LATTA. OK.

Mr. HUNT. I don't have the number off the top of my head.

Mr. LATTA. And do you remember who the contractor was?

Mr. HUNT. No, sir, I don't. Not off the top of my head.

Mr. LATTA. If you could get back to the—

Mr. HUNT. I will get you all that.

Mr. LATTA [continuing]. Committee on that.

Let me go back to some questions the gentlelady from Tennessee had asked, especially with the Strike Force, you know, because in your testimony, on page 11 when you were talking—you were talking about the Strike Force, you say, “This action was taken with no coordination with either the OIG or the DOJ, and complications abound.”

And I know the gentlelady brought up, should we even have the Strike Force? Should it even exist? But in your mind, since there is no coordination and that you don’t have any, really, ability to, it sounds like, work within the system, how are you going to fix this?

Mr. HUNT. Yes, sir, the Congresswoman from Tennessee, when she asked the question, Mr. Wilkins said there is coordination between the Strike Force, OIG, and DOJ. That in itself is a problem. There should be the DOJ and the IG office.

The fact that there is coordination between the three supports the very problem that we are running into. DOJ is wondering who is really in charge here. Who is the criminal investigative team. Is it the IG shop or is it the Strike Force?

If the Strike Force wants to focus on enforcement, if they want to focus on changing rules and regulations, we don’t object to that. It is when they step over into criminal law there will be—there have been coordination issues already. And we don’t see how that is ever going to end.

Mr. LATTA. OK. And just before you had that in your testimony, you also said this. You said, “Further, every time one of my managers has to request permission from the FCC manager to hire someone, our independence is impugned. This ongoing practice gives my office the appearance of a lack of independence from FCC management.”

When you say it looks like there is an appearance of a lack, is there a lack of appearance that there is something happening, or don’t you have that independence at all?

Mr. HUNT. Let me just give you an example. The Strike Force now contains three people. Those people were hired in a matter of months. Sometimes it takes me 6 months to a year to hire people.

I think it is an appearance of lack of independence if I have to go—well, let us just say this. I think it is a lack of independence if I have to go and contravene the IG Act by asking HR for permission to hire every single time.

Now, 1811s, they will argue about that, but even for a paralegal, I have to ask permission to hire a paralegal. Now, eventually I will get that permission, and I know that they have rules and regulations, but they play with the PD, the position description, which is something that we have the capability of doing, and by modifying what the position will do is something else we don’t necessarily agree with.

Now, we are working with the managing director’s office. We are trying to resolve these issues, but when they can hire people in the Strike Force almost instantaneously and it takes us months and even a year to do the same, I think that answers itself.

Mr. LATTA. Thank you very much, Mr. Chairman.

I see my time has expired, and I yield back.

Mr. WALDEN. The gentleman yields back.

I turn now to the gentleman from Nebraska, Mr. Terry, for questions.

Mr. TERRY. I guess I am next since I'm the last.

Mr. Wilkins, somewhat related to the Web site issue, but in 2010 the FCC launched an effort to develop a consolidated licensing system, and it seemed like, frankly, a common sense reform, given that the FCC has six different online databases for licenses.

So if the issuance of low power FM licenses and several of my constituents have been provided licenses. I would imagine they have had a lot of difficulty if they are trying to find their own license application.

So can you explain what happened to this initiative? Is it still on course? How much money have they spent? What is the timing of completion?

Mr. WILKINS. Yep. So the consolidated licensing system is a great example of the overall IT modernization we are trying to accomplish, and so the fundamental need is how do we create a much more cohesive enterprise environment to manage efficiently and then allow all the users—they do have slightly different needs—to have those needs filled.

You know, I was not the managing director when the specific project decisions about the CLS project were made, but we see absolutely the same need. Our modernization effort, a much more consolidated and consistent approach to licensing it would be one of our best reasons we think it needs to get done.

Mr. TERRY. What is the time expectations that this could—the CLS would be completed and how much money has been spent on it so far?

Mr. WILKINS. Yes, sir. So the timeline truly depends on our funding. The challenge is if we have the funding to commit to the systematic approach we want to take, our timeline will be about a 2-year timeline is what we put in place. If we are doing things piecemeal, the timeline could be quite a bit longer. That is a question we have to make as we assess.

Mr. TERRY. Probably the right answer is—I am picking up reading between the lines—is I don't know, but I will get back to you.

Mr. WILKINS. Well, we could certainly follow up with specific information on the history—

Mr. TERRY. I would appreciate that.

Mr. WILKINS [continuing]. On the CLS project.

It is on hold now pending—

Mr. TERRY. OK. Well, that is new information. So it is on hold now.

Now, Mr. Hunt, kind of dovetailing to the Intergovernmental Personnel Act and borrowed employees, of which Mr. Wilkins and the chairman had a discussion, reading some salacious newspaper articles regarding FCC and some of their employees, which is disturbing on so many different levels, first of all, that an employee is watching pornography, but viewing it at work with government taxpayer-owned equipment, but also giving the excuse that they are bored.

If FCC employees have time to engage in that ugly activity, A, why do they exist there anyway? Doesn't that tell us that they have more employees than they need?

Then I want to know is that a criminal act by watching that stuff on government-owned or taxpayer-owned equipment? And what's your inspector general's role in getting rid of that person?

Mr. HUNT. OK. Thank you, Congressman.

The IT department of the FCC, they screen for images. It is usually through, I think, a hash number. It is a crime to view child pornography. There are hash numbers for those. Normally we go to the department of mail—mail department because they are the repository of that information, but that is a crime. We have a hot line number to the FBI. Whenever child pornography is found, we call the FBI immediately. We screen and if—it just depends on the severity. If it is child pornography, yes, it is a crime. If it is not, no.

I heard the report also. I think the report was wrong a bit because he said he was watching it 8 hours a day. It was actually 8 hours a week. I know that doesn't help.

Mr. TERRY. Yes, that—

Mr. HUNT. But that person was—

Mr. TERRY [continuing]. Means really sick versus just sick.

Mr. HUNT. Right. But it was referred to the IG office from—

Mr. TERRY. Should it have been?

Mr. HUNT. It should have been referred to the IG office, and we got the person to resign before he was terminated. So that person is gone, but it is an ongoing thing to look for any type of pornography on the system.

Mr. TERRY. All right. So I will submit a written question since my time is up to you, Mr. Wilkins, regarding if the employees are that bored why do you have that many employees.

Mr. WALDEN. Thank the gentleman for his questions.

We will turn now to Mr. Long for 5 minutes.

Mr. LONG. Thank you, Mr. Chairman.

And, Mr. Hunt, I want to follow up on that just for a minute. Speaking of this pornography situation, you said that the gentleman resigned before he was terminated.

Mr. HUNT. Yes, sir. Yes, sir.

Mr. LONG. What is the difference?

Mr. HUNT. I would have to go to the—

Mr. LONG. Well, does he get his benefits? I mean, you are a lawyer. Does he get his benefits and things that—is that why he was able to resign instead of be terminated?

Mr. HUNT. I assume he retained his benefits when he resigned, yes, sir. I assume that. I don't know that for a fact, but I can find that out for you.

Mr. LONG. Do. I would appreciate if you would find that out and let us know.

Mr. HUNT. Yes, sir.

Mr. LONG. Because I don't get that.

Mr. HUNT. Yes, sir.

Mr. LONG. I apologize for my voice and my cold today.

For both the witnesses, over the summer we heard a little bit about the FCC's Web site crashing during the net neutrality comment period, and was the agency able to ensure that all the comments submitted were collected and accounted for or were some of them lost? Mr. Wilkins first.

Mr. WILKINS. Oh, yes. They were—yes, they were all collected, all accounted for. The actual current number as of today is about 3.7 million total comments filed over that whole proceeding now.

Mr. LONG. And you are confident none were lost during the crash—

Mr. HUNT. Yes.

Mr. LONG. OK. And then what is the plan for the agency to ensure that this type of thing doesn't happen again?

Mr. WILKINS. Well, so that is our electronic comment filing system that is part of our external profile. It is different from the Web site. It is actually an 18-year-old system. It was developed in the late 1990s.

The technology that underlies it is sort of long gone from the commercial world. That is a major focus of our IT modernization is that whole system needs to be basically brought into the 21st century, and that is what our IT modernization proposal actually focuses on.

Mr. LONG. OK. Mr. Hunt, do you have any comment on the loss? Well, it was not lost, I guess, but the crash and whether anything was lost and what can be done about it in the future?

Mr. HUNT. Actually, we haven't had any complaints or comments on that yet. We have heard about it crashing and have the new technology—

Mr. LONG. You haven't had any comments about what? I am sorry. I didn't—

Mr. HUNT. No. About the Web site crashing. We get our work from complaints, and the Web site crashing is not anything we have ever been asked to look at yet.

Mr. LONG. OK.

Mr. HUNT. But it is one of many things we are considering looking into.

Mr. LONG. And again for both of you, I will start with you, Mr. Wilkins, outside of anything special in your testimony, can you each tell me what Congress can do to help you carry out your duties more effectively other than just providing more money? If you had a wish list, if you had your druthers, what would you rather us do?

Mr. WILKINS. Right. Well, I will say one thing that does come to mind, some of our employees are highly specialized professional staff, but we will lose very talented employees sometimes—especially to competing federal agencies that can pay slightly higher salaries.

And, of course, that would not be relevant for most of our employees, but we do have a handful of very important employees who have been hired away from competing agencies, and it is still in the Federal Government. They can just pay a lot more, and it is sort of hard for us to retain that kind of talent.

Mr. LONG. So that sounds like more money to me. Anything besides more money?

Mr. WILKINS. You know, it almost—on that issue, I would be fine on a net neutral money basis with the ability to take a given employee who is really important and be able to make sure we are paying a market rate at least in the government to retain that tal-

ent. Would actually add a lot separate from whatever the total budget was.

Mr. LONG. OK. Mr. Hunt?

Mr. HUNT. Thank you, Congressman. I just want to apologize. Sometimes I raise my voice too much because I am just very passionate about what we are doing and what my staff is doing. We work very—

Mr. LONG. I am hard of hearing. So I appreciate when you raise your voice.

Mr. HUNT. OK. OK. Well, good. You are going to hear more of it because the things I mentioned before, letting us hire who we want to hire. If they want a Strike Force, tell us exactly what that Strike Force is going to do.

Are they going to do criminal law? If they are going to do criminal law, how do we work that and how does that jibe with the IG Act? The IG Act was created to do exactly what the Strike Force apparently is intended to do.

We report to Congress in the same way. We report twice a year and they don't. And I am not saying this would ever, ever happen, but there is potential they could find things that we didn't know about and cover them up. I am not saying it would ever happen, but there is potential there.

So we would like to, A, hire who we want to hire when we want to hire them. Hire 1811s and get more definitive information on the Strike Force or have the Strike Force incorporated within the IG office.

Mr. LONG. OK. Excuse me. OK. I appreciate that, and thank you both for your testimony.

And I yield back with no time remaining.

Mr. WALDEN. Well done.

I now turn to the gentleman from California, Mr. Waxman, for 5, minutes.

Mr. WAXMAN. Thank you very much, Mr. Chairman.

Many questions have been raised concerning Mr. Hunt's allegations about the Universal Service Fund Strike Force, and I would like Mr. Wilkins to respond.

Could you describe the level of coordination between the IG and the Strike Force?

Mr. WILKINS. So my understanding is that there has been an A, just a regular level of coordination since the Strike Force stood up its first employee, which was just a couple months ago. One of the main areas of activity for the Universal Service Fund, of course, is USAC, the administrative company that runs it.

One of the ways that enforcement issues come from USAC is through whistleblower logs that come in to USAC. My understanding is there has been now an agreement that those logs will be shared between the enforcement bureau and the IG, and that compared to past practice, that is a much higher level of coordination than existed in the past.

Now, it is very important to the chairman that is in fact what is happening, and so if there are issues where our enforcement bureau and staff are not doing that, I actually will go and follow up and make sure that it is happening, but that is my understanding.

Mr. WAXMAN. Well, how would they delineate the respective responsibilities of the IG and the Strike Force?

Mr. WILKINS. So the IG clearly is the lead on criminal activity that relates to Universal Service. I think what we are seeing, though, especially as the programs change so much is that it is rarely one or the other. Any significant enforcement action very often will involve both egregious rule violations and some criminal activity. It is actually one very common thing, for example, that an enforcement bureau may get a matter, find criminal activity, and then refer it to the IG or vice versa. I mean, these are fairly common practices.

We completely agree with the overall idea that as we add this additional enforcement oversight, it has to be closely coordinated to not be duplicative. We want nothing but a good coordinated relationship with the IG where needed, and sometimes it should be independent. Totally agree that there are areas where the IG should—we should not be involved in anything they are doing.

As the Strike Force hopefully adds some more staff, we will just have to make sure all that coordination happens exactly as the chairman wants it to.

Mr. WAXMAN. Mr. Hunt's testimony asserts that, quote "FCC management retains a right to approve all OIG hires, a requirement which appears to contravene the IG Act and impugn the independence of the OIG," end quote.

Mr. Wilkins, can you explain the process the FCC uses to pass through all OIG hires to be posted by your human resources office?

Mr. WILKINS. Yes. Thank you for that question.

It is a passthrough. Whoever the IG wants to hire our HR team will put into the system.

By the way, it is very different than hiring for other places in the commission. I personally actually involved in human capital planning for other parts of the commission for the IG. Whoever they want to put in there they can.

And, actually, I would almost say that the issue is more about the performance of our HR function. So I agree, a 6-month delay to get the hire done is not acceptable, and that is actually an overall management issue that we want to work on.

So I think that all we want to do is make sure that when something is posted, we have done our job on the HR side to make sure that whatever the civil service requirements are are complied with. They always are. No question. And, frankly, we could just do a better job processing those requests.

I will say—I did just do a quick check. So just last week we had one where approval came in about I think 6 minutes was the e-mail chain, and that probably is because we have really been focusing on it lately.

So we absolutely can do better in the performance, but full stop. Whatever the IG—whoever he wants to hire, we will support it and want to do the best job we can.

Mr. WAXMAN. In other words, the OIG could decline to use the FCC HR office for hiring and go to another agency as OIG did with procurement?

Mr. WILKINS. We would love to try to keep their business, but they absolutely can, and, in fact, we have another situation where

our contracting organization earlier this year was really underperforming. We had a huge backlog. The IG's management staff came and said: We are actually thinking about moving to the—the Interior Department has a shared service center, and I said: You know, based on the performance you are getting, I can't argue with you.

So they actually took that business to the Interior Department. We actually now have a new head of contracting that has made a lot of improvements, and I have told them—I said, "Keith, try to win back the IG's business." So they certainly could do that, although we, frankly, think we can do an efficient job supporting them, and want to do as good of a job as we can.

Mr. WAXMAN. Yes, Mr. Hunt. What do you think?

Mr. HUNT. No, I thank you for letting me respond.

First of all, when there is evidence of crime, it is not that you should go to the IG, you have to go to the IG. There is no option there. To say that—I don't mean to beat up on Mr. Wilkins too much. He hasn't been there that long, but we have had instances where we have tried to hire people, like a paralegal, and HR has come back and say: You can't hire a paralegal because the FCC doesn't have any paralegals, which is exactly what we need.

And this, yes, we did take part of our business——

Mr. WAXMAN. Can't you work this out?

Mr. HUNT. We took part of our business to the Department of Interior for contracting because we would get our contracts—our work to the managing director's office first. We were first year after year after year, and every single year we would be up until midnight on the last second of the last day to get the work done.

I have had people—last time I testified here I had people who pulled IVs out of their arm in a hospital to get back to work to get these contracts done. It is——

Mr. WAXMAN. Mr. Wilkins, what do you say about that?

Mr. WILKINS. Well, obviously I can't speak for past management. I absolutely agree our contracting performance was not up to snuff. We brought in a new head of contracting on—since he has come in in May, we have reduced our backlog from 300 acquisitions to 50. So we actually think we could do a much better job supporting the IG going forward.

And on the hiring front—so, again, I can't speak to anything before I was there. Absolutely, if the IG thinks a paralegal serves their mission, there is no reason in the world that we should not be able to support that, or, you know, anything else other than, as the IG said, the 1811 criminal investigator is a different civil service law question, but, you know, we are fundamentally there to make sure that the IG can hire who they want to hire to deliver their mission.

Mr. WAXMAN. OK.

Thank you, Mr. Chairman.

Mr. WALDEN. Thank you, Mr. Waxman.

I am sitting here trying to figure out how an agency that can't quite get a Web site to work and has all these issues is going to effectively manage the entire Internet.

We are going to go now to Mr. Shimkus.

Mr. SHIMKUS. Thank you, Mr. Chairman.

Happy Liberty Day. I just wanted to let you know I was—left the room. I got accosted by a bunch of—we used to call them broaching snatchers, little kids who then came to ask me a question about the Constitution. I passed the question. I got this sticker.

Mr. WALDEN. Congratulations.

Mr. SHIMKUS. So I am very proud. So I would call it Constitution Day, but they were calling it Liberty Day. So, first of all, I wanted start with that.

Secondly, in the testimony, it does give us an opportunity just to pause, and we do have some very good committed civil service employees in the Federal Government throughout the agencies, and we want to make sure we pause and recognize that they are there and they are working hard and sometimes with not a lot of support from, you know, other folks like us sometimes.

So having said that, and Congresswoman Eshoo is not here, but we serve and we have been working on 911 issues since I have been here and as a member of the House, and so, Mr. Wilkins, my question really deals with a policy issue that has been resolved policy-wise, and even in the agency it is just implementation of that, then I want to follow up on the question, and so it all deals from the Middle Class Tax Relief and Job Creation Act of 2012 where we required the commission to create the Do Not Call Registry for PSAPs, or public service answering points, to address the automatic dialing problem, which can tie up the safety lines, and safety lines are no good if they are tied up.

The commission released a notice of proposed rule making in May 2012 and an order on October 17th, 2012. I have addressed this a couple times with the commission. Obviously it has not been enacted and we haven't moved forward. So as a new man in charge of getting the commission to do, actually then implement, I wanted to make you put on record that we are watching and offer you any comments upon this issue if you have got anything to mention?

Mr. WILKINS. Thank you, Congressman. Yes, we are absolutely on top of that issue. As you said, the rule making is finished. We have actually done the operational planning. I think, as you may know, that that system sort of originally it is the Federal Trade Commission and they have a contract. We have worked a lot to understand what the most efficient way we can fill the mandate.

So we basically have a plan, 5-year plan to fulfill that mandate. It does require funding. In our 2015 requests, we have a \$500,000 line item to essentially launch that project, and then, of course, once you launch that kind of an effort, it does need to be sustained over the duration of the effort.

So we are ready to go and just want to make sure we don't get over our skis in terms of the resources being there to support it, but we absolutely are ready to go, and I have spent a lot of time looking at it.

Mr. SHIMKUS. And then from our perspective, that is some of this—the IG's report on who is spending what and how, then that allows us to say: Well, maybe we haven't spent money well in one area and if we do have a program that is ready to go but is lacking authorization, I guess the question would come what is the internal flexibility to move stuff around inter-commission to get what some of us would consider a priority?

Mr. WILKINS. Right. So certainly to a point we can sort of optimize that last bit of the budget. I think the thing that we are cautious about with the PSAP project, it is a multi-year effort that does have, actually, several million dollars' worth of obligation against it eventually, and I think we have actually looked at the question of well maybe we could find some current funds to start it, but then it starts to become fairly risky from a budget and planning standpoint, because then if there is not follow on funding, you really do start to cut in pretty deeply to what you have in subsequent years. So——

Mr. SHIMKUS. OK. And thank you for that, and let me just finish with this.

Audit revenues are—some of it is allowed for internal operating processes, and you have to account for those and make sure that they are adequately and appropriately used.

Do you think you have got plans and policies in place to do that?

Mr. WILKINS. For options?

Mr. SHIMKUS. Right.

Mr. WILKINS. Yes. Absolutely. So obviously the longstanding issue at the commission, we use cost accounting method. Wherever possible we literally do direct accounting. So an employee has a time sheet ability to say: I spent time on options, and that is you know, that is as direct as you can get.

For IT costs where there is varying degrees of sharing among IT systems, we actually take a e-system, try to really decide how much of it was for options, and then there is a small bit of overhead where we do use a ratio of time spent, options/not options, to allocate a small amount of overhead, and we have been audited many years on that and had auditors——

Mr. SHIMKUS. And you do a review. Is that review complete?

Mr. WILKINS. Well, no. So we constantly want to make sure that we are treating those allocations correctly, and so that is just an ongoing effort, and when—our auditors always ask us to——

Mr. SHIMKUS. And if we followed up with a question on sharing some of the results——

Mr. WILKINS. Sure. We can do that.

Mr. SHIMKUS [continuing]. You wouldn't have any problem with that?

Mr. WILKINS. Absolutely.

Mr. SHIMKUS. All right. Thank you very much.

Mr. WALDEN. Thank the gentleman for his questions.

We turn now to the gentleman from New Jersey as our last questioner.

Mr. LANCE. No questions.

Mr. WALDEN. And then we are done.

So thank you very much to our panel. We will have some questions for the record that we will be submitting to you in the due course of time, and I imagine there may be some other members who had conflicting hearings today that might also have questions. We appreciate your response to all of our inquiries, and I know sometimes there are a lot of inquiries, but we are trying to do our oversight job just as you are trying to make the agency run better from every perspective.

So thanks for sharing your thoughts with us, your investigations, and the progress that you are making I commend you for and we look forward to continuing this dialogue.

The subcommittee is adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

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October 24, 2014

Mr. Jon Wilkins
Managing Director
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Mr. Wilkins:

Thank you for appearing before the Subcommittee on Communications and Technology on September 17, 2014, to testify at the hearing entitled "Oversight of FCC Budget and Management."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on November 7, 2014. Your responses should be mailed to Charlotte Savercool, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to Charlotte.Savercool@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Greg Walden
Chairman

Subcommittee on Communications and Technology

cc: Anna Eshoo, Ranking Member, Subcommittee on Communications and Technology

Attachment

Jon Wilkins
FCC Managing Director
Questions for the Record
September 17, 2014 Hearing
Communications and Technology Subcommittee
Committee on Energy and Commerce

The Honorable Greg Walden

Question 1:

You testified that process reform is "fundamentally about measuring and tracking."
 You noted that when you can measure and track you can "simultaneously become more transparent and efficient."

In one of our recent information requests, the Committee asked for performance metrics – speed of disposal metrics and the success in meeting those – for each of the Commission's bureaus and offices. While the Commission provided these metrics for some bureaus, other bureaus and offices were not included in the response. For example, the response did not include metrics for the Enforcement Bureau – the agency's largest. We were told that the response was complete.

- How can these other bureaus and offices be effectively managed in the absence of performance metrics and goals?
- How can FCC managers assess performance and success in achieving the Commission's mission in the absence of such metrics and goals for the Commission's bureaus and offices?
- How can the FCC successfully achieve real process reform in the absence of such metrics and goals?
- What steps, if any, have been taken to develop performance metrics and goals for all of the Commission's bureaus and offices not included in the FCC's response? When will these steps be complete?

Response:

How can these other bureaus and offices be effectively managed in the absence of performance metrics and goals?

The Chairman's June 30th response to question seven of your letter concerning speed of disposal included information for all Bureaus except the Enforcement Bureau (EB). The Chairman's response did, however, provide substantial information about EB's cases in response to question 13. Although in a different format than question seven, in response to question 13, EB produced five years of extensive information about its work, including numbers of investigations, types of investigations, and actions taken as a result of EB investigations.

EB also was at the time in the process of re-evaluating its internal processes, and that reform initiative has yielded a significantly more rigorous case management approach, as detailed below. As highlighted in the October 17th update of the June 30th responses to questions one through five on pending items, EB's new leadership team has been diligently working to re-evaluate case management methods, and the Bureau is improving its case load management as a result.

Importantly, the speed of disposal information provided for question seven by the Bureaus is a valuable way to quantitatively measure activity at the Commission, especially in the context of licensing, complaints, and petitions. The Commission also has a number of other activities such as rulemaking and consumer outreach where more qualitative measures are used to evaluate activity and progress.

Through the Commission's Strategic Plan, Annual Performance Plan, Annual Performance Report, Agency Financial Report, and Summary of Performance and Financial Information, the Commission provides a wide variety of financial and performance information available publicly on its website at: <http://www.fcc.gov/encyclopedia/fcc-strategic-plan>.

The goals within the Commission's Strategic Plan and Annual Performance Plan cut across the agency and are the result of collaboration among the Bureaus and Offices. This approach has allowed the Commission to publicly track and report on its work towards meeting its performance goals.

Finally, as noted recently in an update on process reform posted to the Commission's website, the Commission's staff has focused on matters identified as backlogged, and increasing speed of disposal for all matters. Two key internal process reform working groups have been examining ways to not only reduce the number of items currently pending at the Commission, but to also move incoming items through the system faster. Process reform efforts like these bolster the performance of the Commission's Bureaus and Offices by focusing their priorities on areas that need improvement.

How can FCC managers assess performance and success in achieving the Commission's mission in the absence of such metrics and goals for the Commission's bureaus and offices?

Managers throughout the Commission do use metrics and goals which are tailored to the work of the relevant Bureau or Office to evaluate the performance of their staff in achieving the mission of the Commission. As noted, six of the seven Bureaus did provide information on their metrics and goals in response to question seven, and EB provided extensive information on its performance in response to question 13. Individual Bureaus and Offices manage their workloads using front office and division management tools as well as tracking systems to guide their work and evaluate performance of their staff each fiscal year. As mentioned above, performance may be measured both quantitatively and qualitatively to ensure that the work is being completed effectively, and on schedule. The goals and priorities of the individual Bureaus and Offices evolve as issues arise so the Bureau and Office leadership must be dynamic and flexible in guiding their staffs to perform their roles to best support the Commission's work, as it responds to the broader communications landscape.

How can the FCC successfully achieve real process reform in the absence of such metrics and goals?

The Commission already is making progress on process reform, as it builds on its existing metrics and goals. For example, as noted in the Commission's October 17th update on questions one through five on pending items, the total volume of items pending at the FCC for more than six months has dropped by more than one-third since May 1st. This decrease is due in large part to focusing the priorities of staff on working toward backlog reduction. This effort requires planning, communication with staff, and execution.

As a result of the recommendations in the Report on FCC Process Reform, every Bureau and Office with responsibility for responding to requests from external petitioners and licensees has developed a backlog reduction plan. The plans focus on methods for reducing pending items at the Commission, as well as future process improvements. As part of these plans, every Bureau and Office has ensured that its tracking system includes a complete inventory of all pending matters.

In addition, based on the backlog reduction plans, an internal working group established "best practices" for speeding the processing of pending items before the Commission, including suggestions for streamlining operations. The best practices have been circulated internally and discussed in individual meetings with the Bureaus and Offices to facilitate information sharing across the Commission.

These are positive steps forward for the Commission and signify that process reform efforts are taking hold and working. But the solutions noted here require strategic planning and long-term execution. The Commission's staff is actively engaged in implementing process reform and ensuring that these reforms are permanent.

What steps, if any, have been taken to develop performance metrics and goals for all of the Commission's bureaus and offices not included in the FCC's response?

Over the last few months, EB has been aggressively pursuing a process reform initiative, and has already implemented several steps to improve its speed of disposal as part of a longer-term effort to make its processes more efficient. As part of this effort, EB is developing enforcement priorities to identify important matters and to allocate resources effectively. For example, EB has worked to quickly identify and resolve those matters that do not reflect the enforcement priorities. It also has developed and been implementing a comprehensive backlog reduction plan. In addition, EB has taken several steps to reform its internal processes to reflect these priorities, including minimizing the use of tolling agreements (thereby requiring the Bureau to act within one year), establishing templates to streamline processing and establishing speed of disposal targets based on the type and complexity of matters.

More generally, one of the process reform working groups is tackling the task of refining and expanding existing speed of disposal metrics agency-wide. The Bureaus and Offices have been evaluating the types of items that they work on, how they track them, and refining their tracking requirements. The working group is in the process of evaluating the Bureaus' and Offices' responses and determining how best to expand and enhance the use of speed of disposal metrics Commission-wide.

When will these steps be complete?

The working group is expected to have speed of disposal metrics in place for each Bureau and Office that handles external matters in the first quarter of 2015.

Question 2:

In response to a cyber-security incident in 2010 the FCC initiated a project to improve security by implementing enhanced security controls. To do this the FCC received approval from OMB and Congress to use \$10 million in de-obligated funds. In January 2013 GAO issued a report finding the FCC did not do an effective job implementing this project. It also noted that until the FCC updates the cost estimate, finalizes a reliable schedule and fully manages project risks it will continue to have limited ability to effectively manage and monitor the project increasing the potential that successfully mitigating the risk from cyber threats will cost more than planned and will take longer than projected.

The then-Managing Director stated that the project would be completed under budget with only minor schedule deviations.

- When was the project completed? Was it completed on time? Was it completed under budget? If not how much more did it cost? What was the total cost? How much of the total cost was allocated to auctions?

Response:

Shortly after his arrival in late 2013, the new FCC Chief Information Officer (Dr. David Bray) requested a status report on the implementation of the enhanced security controls paid for through the reprogramming. On February 24, 2014, Dr. Bray submitted a summary of that status report to the GAO's Director of Information Security Issues stating that the Commission had implemented all seven Public Recommendations and we had completed 17 of the 24 Non-Public Recommendations in accordance with the FCC's planned timeline, with the remaining four slated for completion in 2014. The final implementation cost was \$9,733,581. Because the project was completed on time and at \$266,419 under budget, there are no additional costs to report. Due to the outward face of auctions and the essential nature of ensuring the protection of proprietary business information, fifty percent of the cost was allocated to auctions.

It is important to note that immediately following his review of this situation, Dr. Bray obtained a top-level cyber detailee, at no cost to the FCC, from the Department of Homeland Security's NPPD cyber division.

Question 3:

You testified that the FCC will have a new consumer complaints process online by the end of the year.

- **When will it be available? How much will this initiative cost when completed? How much of the cost will be allocated to auctions?**

Response:

The FCC initiated a test launch of its new Consumer Complaint system and website on October 31, 2014, with a percentage of consumers being routed to the new website starting on that date. FCC staff began providing demonstrations on Capitol Hill in November, and we provided a demonstration for this Committee's staff on November 21, 2014.

The test program has been going smoothly, and we expect the upgraded Consumer Complaint system to be fully launched before the end of the calendar year, as planned. We will keep the Committee staff apprised of our work.

The Commission thoroughly investigated the best method for upgrading its system and managed to procure a system at \$343,380 in start-up costs. None of the costs have been allocated to auctions, but some of the upkeep costs may be allocated in the future.

Below is a chart providing the costs and costs saving by initiating the new system versus using the current legacy system. These types of cost savings associated with modernization will be realized for all FCC systems once this process is underway.

	Initial Cost	\$ 343,380					
	O&M Cost	\$ 178,020	\$ 181,296	\$ 184,736	\$ 188,348		
Zendesk	TCO	\$ 343,380	\$ 521,400	\$ 702,696	\$ 887,432	\$1,075,779	*includes licensing, support, operations, and sustainment
		Year 1	Year 2	Year 3	Year 4	Year 5	
	Comparison						
		FY11 (est)	FY12 (est)	FY13	FY14	FY15	
Legacy CCMS	O&M Cost	\$ 474,062	\$ 474,062	\$ 474,062	\$ 456,200	\$ 479,000	*includes operations and sustainment
	TCO	\$ 474,062	\$ 948,124	\$1,422,186	\$1,878,386	\$2,357,386	

Question 4:

One of the recommendations of the recent report on FCC process reform was to overhaul the FCC website. When it was launched in 2011 it was described as a "model for other agencies" and the then-Managing Director said that its cost would be recouped in nine months.

- How much did the FCC spend to launch the website?
- How much has the FCC spent on the website from the date of its launch to the decision to implement an overhaul?
- Was the original cost recouped?
- How much will the overhaul cost once completed?
- When will the overhaul be completed?
- Once completed what will be the total cost of the website –from the beginning of the first overhaul in 2009 to the completion of the latest overhaul currently underway?

Response:

Before the last upgrade, the website had not been substantially overhauled since its 1995 creation and minimal funds were spent for upkeep. Our records show that the FCC spent approximately \$300,000 for maintenance and upgrades during the next fifteen years.

On January 7, 2010, the FCC launched reboot.fcc.gov as an initial step to transitioning to the current www.fcc.gov during the following year. The Commission solicited public feedback and included its constituent base in the design of the new site, but admittedly, the final design was not entirely supported by the FCC website user community, and we continue to register complaints about its complexity.

My understanding is that the 2010-2011 website redesign was intended to be more consumer-focused, and included the addition of Web 2.0 technologies. Rewriting the back end of the website and going open source in the 2010 timeframe was an important step forward; now we need to refine and improve the front end, usability, and searchability on the site.

Our planned Fiscal Year 2015 improvements build on the improvements initiated in the 2010 – 2011 overhaul. The future website will focus on improving searchability and navigability of the website, ensuring content is current, and leveraging state-of-the-art technology to improve the delivery of FCC services. We have partnered with industry leaders on user experience, search and analytics. Over the next several months, the project team will conduct research, prototyping, and usability-testing to complete a data and stakeholder-driven design. By the end of January we expect to have improved the search capabilities of the FCC's current publicly available content and a working prototype.

By investing the time and energy to modernize our aging legacy systems in parallel with updating www.fcc.gov, we will holistically improve the data, information, and services the FCC provides the public.

How much did the FCC spend to launch the website?

The FCC invested \$1,330,470 in startup costs for the 2010-2011 website redesign. The post-launch support for the new website, combined with continued cloud-hosting of part of the website and the development of new tools and technologies, resulted in additional costs. The Commission later invested \$412,362 to refine the cloud infrastructure for the portion of the website hosted in the cloud.

How much has the FCC spent on the website from the date of its launch to the decision to implement an overhaul?

As of May 1, 2012, the combined expense of the FCC.gov overhaul, launch and maintenance, was \$4.2 million. This number does not include all routine maintenance costs which were later absorbed in the FCC's overall IT budget and continued through the next two fiscal years.

Was the original cost recouped?

Modernization efforts normally result in cost savings based on reduced operations and maintenance (O&M) costs, but we lack sufficiently detailed prior year data to quantitatively determine cost savings from the 2010-2011 redesign. Going forward, however, the current CIO has built this concept into his ongoing IT planning process. A good example of this focused approach is the chart at Response 3. We will be compiling such return-on-investment information for our significant IT expenditures going forward, for our own purposes and to better assist this committee and the appropriators in understanding our expenditures.

How much will the overhaul cost once completed?

Project Refresh will come in two phases. Phase One's cost is estimated at \$400,000, while Phase Two full production costs are estimated at \$500,000, plus support costs not to exceed present expenditure levels. We expect cost avoidance or savings of nearly \$300,000 per year on upkeep and maintenance due to modernization. In this case the cost avoidance is quantifiable in internal support and maintenance costs.

When will the overhaul be completed?

With sufficient funding, we expect to complete the website upgrades prior to the end of Fiscal Year 2015.

Question 5:

In your testimony you note that the FCC's electronic comments filing system -- ECFS, "which may have been state-of-the-art 18 years ago, is no longer able to cope with the world as it exists in 2014." In late 2009 the FCC announced what was described as a major upgrade to the FCC's Electronic Comment Filing System as part of the Chairman's modernization efforts.

- How much did the FCC spend on this upgrade?**

Response:

The Commission released the Electronic Comment Filing System Version (ECFS) 2.0 to the public on October 23, 2009. The FCC's records show that the initiation of this project cost \$166,000 with a final cost of \$490,788. These amounts do not include general system maintenance. Prior to this upgrade five years ago, ECFS 1.0 was used for eleven years with very few upgrades.

The 2009 improvements allowed for multiple methods of downloading data on over 3,000 proceedings with associated filings, while also insuring that interested parties would be able to use features such as RSS feeds and full-text search to stay abreast of new dockets and filings added to ECFS. At that time, the Commission's staff noted that further upgrades would potentially include adding taxonomy terms for tagging content; providing XML upload and download of filings with secure authentication; adding audio and video filings to proceedings; and including social media dialogues to proceedings for inclusion into the record.

The FCC's budget was nearly or continually flat-lined during the next five years, and after sequestration reduced our budget by \$17 million in Fiscal Year 2013, we were unable to continue upgrades and improvements. Moreover, in 2011, substantial IT funds were diverted to security upgrades in a reprogramming request.

The ECFS system's dated nature became painfully evident during the Open Internet proceeding when the Commission received over four million comments. The electronic filing system is complex and interdependent upon other systems – more importantly, we need to upgrade the FCC's IT architecture to support the volume of today's ECFS users.

Question 6:

In a Blog posting appearing this past April, the new Chief Information Officer stated that "The FCC Data and Information Officers Working Group had atrophied in the last 12-14 months prior to my arrival, so we're in the process of re-invigorating that group."

- Explain what the CIO meant by this statement.

Response:

The FCC's previous CIO resigned from the Commission in December, 2012. The position remained unfilled by a permanent CIO until Dr. David Bray's initial appointment on August 19, 2013. The lack of CIO leadership during this period, combined with the financial impact of sequestration, led to a triage method of handling IT issues at the FCC and had an adverse effect on all related operations. Also, Chairman Wheeler did not take over until November of that year, which followed the government shut-down.

Since being hired, Dr. Bray has focused on upgrading the FCC's IT, recruiting highly skilled staff, including detailees from other agencies, putting in place a 24-month plan, and developing a long-term plan for modernizing the FCC's IT structure. Dr. Bray also has created a permanent roster of Information and Data Officers in each Bureau and Office to foster better use of data, and this group now meets regularly. Data Officers are responsible for the policies and practices that make FCC data available internally and externally as an asset for daily use. FCC leaders in information technology, geographic information, privacy, information security and enterprise architecture work closely with the Information and Data Officers to ensure better overall coordination and a holistic Commission strategy.

The Honorable Bob Latta

Question 1:

How much has the FCC's new financial system cost? Who was the contractor? When will the integration and functionality issues be resolved? Identify the universal service funds impacted. Describe the impact of these issues on the FCC's oversight and management of these funds.

Response:**How much has the FCC's new financial system cost? Who was the contractor?**

The FCC awarded a 10-year, firm-fixed price, performance-based contract to CGI in September, 2008. The contractor completed the implementation of the financial system on time and on budget in September, 2010. The performance-based contract, which includes a Quality Assurance Plan with incentives and disincentives, continues through Fiscal Year (FY) 2018 with scheduled incremental upgrades and operations and maintenance of the application at the commercial shared service provider, CGI. As part of the firm-fixed price Operations and Maintenance portion of the contract, the FCC successfully upgraded the Financial System to the newest software release in January, 2014.

Total costs through Option Year Six to date are \$20,119,075, inclusive of \$1.6M for the acquisitions module implementation which was implemented on time and on budget in FY 2011.

When will integration and functionality issues be resolved?

The financial system integration and functionality audit findings mentioned in the Commission's FY 2013 Agency Financial Report (AFR) were submitted for closure to the Commission's Office of Inspector General on May, 2, 2014. The Commission's external auditor reviewed this information and closed the finding. This finding does not appear in the Commission's FY 2014 AFR.

The FCC initiated a "Tiger Team" in 2011 to address outstanding system and post implementation issues; however, the accounts receivable automated aging functionality in the financial system, continues to pose challenges with its inability to identify delinquent accounts through the system and produce the required dunning letters. Due to this system deficiency, the FCC was unable to utilize the automated process to assist with the remittance of debts to Treasury and did not begin transferring eligible debt until April 2013. As of September 30, 2014 the FCC has transferred 95.6% of eligible debt to Treasury and has plans to transfer 100% of eligible debt to Treasury by December 31, 2014. We are also complying with the new 120 day Treasury debt transfer requirement.

Identify the universal service funds impacted.

The corrective actions taken by the Commission related to the financial system functionality and integration issues associated with each reporting component and reported in the FY 2013 AFR were submitted for closure to the OIG on May 2, 2014. The Commission's external auditor reviewed this information and closed the finding. This finding does not appear in the Commission's FY 2014 AFR. Listed below are the reporting components and the amounts for each that are consolidated in the Commission's FY 2014 AFR.

Gross Outlays for the Fiscal Year Ended September 30, 2014
 Universal Service Fund – 8,383,644,000
 Telecommunications Relay Services – 925,447,000

Gross Receipts for the Fiscal Year Ended September 30, 2014
 Universal Service Fund – 8,883,191,000
 Telecommunications Relay Services – 938,494,000

Describe the impact of these issues on the FCC's oversight and management of these funds.

As previously mentioned, the findings related to financial system functionality and integration associated with each reporting component and reported in the FY-2013 AFR were submitted to the OIG for closure on May 2, 2014. The Commission's external auditor reviewed this information and closed the finding. This finding does not appear in the Commission's FY 2014 AFR. The Commission continues to work closely with its reporting components to develop timely, accurate, and useful financial information to ensure the most effective stewardship of funds.

The Honorable John Shimkus

Question 1:

Mr. Wilkins, the Middle Class Tax Relief and Job Creation Act of 2012 required the Commission to create a Do-Not-Call registry for Public Safety Answering Points (PSAP) to address concerns about the use of "automatic dialing equipment" which can tie up public safety lines. The Commission released a Notice of Proposed Rulemaking on May 22, 2012 and an order on October 17, 2012. You testified that you "basically have a plan, five year plan to fulfill that mandate." You also testified that you are "ready to go." When will the Do-Not-Call registry for PSAPs be launched?

Response:

The Commission has requested funding for this registry during the past two appropriations cycles but has not received the requested resources. Despite this handicap, the Commission continues to take steps to create the registry to safeguard PSAP phone numbers from autodialed calls, and has sought to do so in a way that is consistent with maintaining the security of these PSAP numbers while optimizing efficiencies and cost savings.

Toward this end, we have worked closely with the Federal Trade Commission and its contractor for the National Do-Not-Call registry to consider ways to effectively and efficiently develop and administer the PSAP Do-Not-Call registry that would not require the FCC to invest in and build its own registry completely separate from that of the FTC. Final Fiscal year 2015 funding levels will be an important factor in determining when the registry can be completed.

I note that the FCC's rules governing robocalls already prohibit the use of autodialers to make non-emergency calls without prior express consent to any emergency telephone line, including any autodialed call to 911 lines and emergency lines of a fire protection or law enforcement agency.

Separately, I have been advised that the FCC continues to enforce its more general robocalls rules before the registry is operational, and autodialed calls to registered numbers will become an

additional offense. The Commission's Enforcement Bureau currently has a number of active robocall investigations which are potentially relevant, although not specifically focused on PSAPs. Given the prevalence of spoofing (i.e., altering the caller ID displayed on a called party's phone) by robocallers, identifying those behind such calls presents particular law enforcement challenges.

Given the final FY 2015 spending measure is still under consideration, we have renewed our request for targeted IT funds, with the PSAP request designated as essential funding.

Question 2:

In response to the Committee's information request we were told that the Chairman asked the Managing Director and General Counsel to review the guidance to employees to ensure that they are adhering to the FCC's internal reporting process for auction related expenditures.

- **Is the review complete? Provide the findings.**

Response:

The Commission's review is ongoing and we will keep the Committee apprised of our efforts in this area. The Office of Managing Director and the General Counsel are in the process of performing the following actions:

- 1) Review and update of the Commission wide directive "Policy Use of Auction and Credit Reform Funds by the Federal Communications Commission."
- 2) Quarterly guidance to be issued to Commission wide staff on the proper use of auction funds for salaries and benefits of employees that directly support the auction program;
- 3) Ongoing review of the use of auction funds for IT infrastructure investments.

Question 3:

You testified that "wherever possible [you] literally do direct accounting" to allocate costs to auction revenues. For Fiscal Year 2013 identify by Budget Object Class Codes all those instances in which costs are allocated to auctions revenues on a direct basis.

Response:

Summary by BOCC:

FY 2013 Auction Expenses 100% Direct		
BOCC		Amount
1100	Personnel Compensation	\$26,357,090
1200	Personnel Benefits	\$7,034,894

2100	Travel	\$40,291
2311	GSA Rent - Portals I	\$3,382,101
2400	Printing	\$630
2520	Contract Services	\$6,310,934
2522	ADP Data Retrieval Service	\$160,916
2523	Training	\$18,025
2572	ADP Software Maintenance	\$173,960
2573	ADP Hardware Maintenance	\$15,307
2575	ADP Contract Services	\$10,808,383
2600	Supplies	\$2,650
2660	Periodicals & Subscriptions	\$1,862
3120	ADP Hardware	\$889,466
3130	ADP Software	\$348,551
3140	Furniture & Equipment	\$1,951
Total		\$55,547,011

The Honorable Lee Terry

Question 1:

In light of the revelation that you have staff who are "bored" and therefore have time to watch porn, what steps are you taking to realign work assignments so this type of activity no longer happens? Are you contemplating any reductions in staff?

Response:

The FCC staffer involved in the incident described by you was designated for termination and resigned. We will continue to work with the IG and utilize FCC resources to ensure that appropriate steps are taken to address employee misconduct. The Commission routinely reviews staffing needs and moves staff where appropriate and eliminates unnecessary positions. We have contracted with the Office of Personnel Management (OPM) to complete a review of our Human Capital strategy and will act accordingly to follow any OPM recommendations.

Question 2:

In 2010 as part of the modernization and reform of agency processes the FCC started an initiative to consolidate the Commission's 10 licensing systems into a single database. FCC officials testified that it would save tens of millions of dollars each year. You testified that this reform effort is on hold.

- **How much did the FCC spend on this initiative before it was put on hold? How many staff hours were expended on the initiative before it was put on hold? When was it put on hold? Why was it put on hold?**

Response:

The FCC's records show that the initiation of this project cost \$2.04 million. My understanding is that the prior Managing Director suspended this upgrade when the complexity and problems related to our antiquated systems became too costly to complete modernization efforts, instead focusing efforts on overall system maintenance or triage for the antiquated systems. Overhauling these systems involves a complex and multifaceted approach that likely slowed progress when initiated almost five years ago. Moreover, by 2011 the FCC had identified security issues and diverted funds to related upgrades consistent with the Appropriations Committee's reprogramming grant. The following year, the Commission's funding levels were flat-lined and in Fiscal Year 2013, the Commission lost \$17 million of its flat-lined number to sequestration.

The Honorable Marsha Blackburn

Question 1:

You testified that the Commission "always coordinated with the Inspector General's with regard to oversight of universal services." You stated that you "will do more of that in the future." The Memorandum of Understanding between the FCC and USAC which was entered into "to facilitate the efficient management and oversight of the Commission's universal service program" expired by its terms in 2012. Among other things, the MOU delineated the responsibilities of the Office of Inspector General and the Enforcement Bureau.

- **Explain why the MOU was not renewed. Given your commitment to coordinate with the Inspector General's Office going forward will another MOU be executed? If not explain why. How will the efficiencies achieved under the expired MOU be maintained in the absence of such an agreement?**

Response:

The FCC and USAC still have a Memorandum of Understanding (MOU) in effect. Specifically, in 2008, the FCC and USAC entered into an MOU, to facilitate the efficient management and oversight of the Universal Service Fund program. Although the initial expiration date for the MOU was September 8, 2012, it was extended six times, with the most recent extension establishing an expiration date of December 31, 2014. In addition, Sections I, II, III.A, IV.B, and VI and Attachment E of the 2008 MOU were modified by the FCC and USAC on November 4, 2014. The expiration date for this Amendment is November 4, 2016. The 2008 MOU and 2014 MOU Amendment are available at <http://www.fcc.gov/encyclopedia/universal-service-fund-general-management-and-oversight>.

The Honorable Cory Gardner**Question 1:**

Beginning in November of 2013, not-for-profit and governmental health systems that operate acute and ambulatory care facilities began to appeal adverse rulings in which USAC held that they do not qualify as a "not-for-profit hospital" for the purpose of determining USF Healthcare Connect Fund program eligibility. These organizations have now waited for almost a year for the FCC to rule on their appeals. This uncertainty has hampered these health systems from developing broadband strategic plans and delayed the deployment of advanced telemedicine technology.

- What is the reason for the delay in resolving these appeals?
- When can these health systems expect the FCC to rule on their appeals?

Response:

Commission staff is actively working on this matter, which involves complex legal issues. It is imperative that the Commission thoroughly review the implications of eligibility determinations to ensure that the Rural Healthcare Program provides funding for truly eligible recipients consistent with the program's statutory mandate. I have made your concerns known to the Wireline Competition Bureau and we will keep the committee apprised of progress in this area.

The Honorable Adam Kinzinger**Question 1:**

Media Bureau Chief, Bill Lake, was asked during the June 11, 2014 hearing on media ownership whether the FCC planned to make sure it held itself accountable for processing requests for waivers of the new JSA rule adopted by the agency. Mr. Lake was asked if he had incorporated a speed of disposal metric - the 90 days for these particular requests reflected in the Commission's order – into a management metric to see how well the Bureau does in meeting the 90 days.

- Has the FCC incorporated a 90 day speed of disposal metric for these waivers in the Media Bureau's performance metrics and goals? If not explain why?

Response:

The Commission currently is in the process of revising its management performance metrics to

review all speed of disposal issues. With respect to the specific issue of JSA waivers, as Bill Lake noted to you in June, the 90 day period for review begins when the record closes on a specific application. Thus far, there have been a very small number of JSA waivers submitted to the Commission in conjunction with license transfer applications, with only three pending requests seeking a waiver of the JSA attribution rule. Subsequent to the filing of these waiver requests, however, the parties to the application filed amendments that would bring the proposals into compliance with the JSA attribution rule. The underlying applications are still under review with the Media Bureau.

The Honorable Anna Eshoo

Question 1:

In 2013, the FCC received nearly 300,000 consumer complaints, yet there does not appear to be any formal means for tying this data to the agency's policy activities. Does the FCC have the resources to respond to trends identified through consumer complaints and take enforcement action when companies violate Commission rules?

Response:

The FCC is in the process of deploying a new Consumer Complaint system which will provide FCC staff with the ability to better analyze complaint data for use in Commission policy activities, in a more timely and accurate manner. Moreover, as this system matures with use, FCC staff will be able to create more refined reports, and make better use of the data collected.

The FCC initiated the test launch of its new Consumer Complaint system on October 31, 2014 and began providing demonstrations on Capitol Hill in November, 2014. Your staff received a demonstration on November 21, 2014. We expect a broader program launch before the end of the calendar year and will keep the Committee staff apprised of our work. The Commission thoroughly investigated the best method for upgrading its system and managed to procure a system at \$343,380. We provided actual projected costs and cost savings in a chart at "Walden #3."

Question 2:

Do you view the FCC's Office of Native American Policy (ONAP) as one that is primarily focused on advocating for policies that are responsive to tribal needs? If so, what are the outcomes? What has actually changed?

- **Does ONAP have the resources to play a more service-focused role within the FCC- one specifically tailored to meet the demand within tribal nations for assistance with FCC programs? What kind of additional resources would ONAP need to serve this function?**

Response:

The FCC has provided significant, ongoing support to the Office of Native Affairs and Policy (ONAP) and its activities since it established the office through a unanimous order and reprogramming in 2010. Current appropriations legislation and the pending Senate bill provide \$300,000 for ongoing Commission work with Tribal entities. Other than the Office of Inspector General, which has an independent budget process, no other Commission office or activity has a specific funding designation. Because ONAP is part of the Consumer and Governmental Affairs Bureau (CGB), we also are able to ensure significant administrative efficiencies with other bureau offices while maintaining positions for seven specifically designated ONAP staffers, including a chief, deputy, attorneys and policy specialists.

Currently, ONAP has a designated core mission of promoting the deployment and adoption of communications services and technology throughout Tribal lands and Native Communities as well as ensuring robust government-to-government consultation with federally-recognized Tribal governments and increased coordination with Native organizations. ONAP handles ongoing consultation with American Indian Tribes, Alaska Native Villages, Native Hawaiian Organizations, and other Native and Tribal entities, and is the official Commission contact point for these activities. ONAP coordinates with FCC Bureaus and Offices and with grassroots inter-Tribal government organizations in hosting the FCC's Tribal Broadband, Telecom, and Media Consultation and Training Workshops in unserved regions of Indian Country.

During FY 2015, ONAP hosted five Tribal consultation workshops, in Idaho, Minnesota, California, Tennessee, and Oklahoma. ONAP held one in FY 2013, and six in FY 2012. ONAP attends numerous Tribal conferences and conventions, and routinely engages in onsite Tribal consultations throughout the nation, including in Alaska and Hawaii. ONAP also is responsible for managing the FCC-Native Nations Broadband Task Force, comprised of elected and appointed Tribal leaders and FCC senior leaders. Originally created in 2011, the Task Force was renewed in October, 2014.

ONAP has worked with Commissioners, bureaus, and offices, as well as with other government agencies, state regulatory commissions, private organizations, and the communications industries, to develop and implement FCC policies regarding Tribal Nations and Native communities. Recent examples of ONAP activities have included coordination with the Wireless Telecommunications Bureau concerning the Positive Train Control (PTC) policy development and settlement, including hosting two Tribal field consultations in Oklahoma and South Dakota on PTC, as well as assisting with the Navajo Nation waiver for the AWS-3 auction.

ONAP provides routine and substantial assistance to the Wireline Bureau concerning the needs of Tribal entities, including the analysis of the E-rate modernization docket affecting Tribal schools and libraries. Other examples of policies developed with ONAP's input include the Mobility and Tribal Mobility Funds, the Tribal Government Engagement Obligation, Tribal Lifeline and Link Up reforms, and the Tribal Priority for Full Power FM Radio licensing. In addition, ONAP has provided input on individual adjudicatory, enforcement, licensing, and regulatory petitions, such as eligible telecommunications carrier designations.

ONAP issued an Annual Report of its activities for Calendar Year 2012, and in June 2014 provided a report to the Appropriations Committees on the implementation of the Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes. The Annual Report is provided online at <http://transition.fcc.gov/cgb/onap/ONAP-AnnualReport03-19-2013.pdf>. In the Second Quarter of FY 2015, ONAP will submit a Report to Congress on the implementation of the FY 2014 budget for Tribal consultation and coordination, and any additional resource needs, consistent with directives associated with the appropriations legislation.

Does ONAP have the resources to play a more service-focused role within the FCC- one specifically tailored to meet the demand within tribal nations for assistance with FCC programs? What kind of additional resources would ONAP need to serve this function?

Utilizing its CGB and ONAP funds, the FCC provides targeted assistance to meet the demand within tribal nations for assistance with FCC programs. For example, on November 19, 2014, ONAP conducted a Tribal E-Rate Training session at the Santa Fe Indian School in New Mexico. ONAP will be holding similar trainings in other regions of Indian Country in the coming year. These activities, combined with ongoing consultations, focused outreach and synergies with other CGB actions such as the implementation of the new Consumer Complaint Database, demonstrate a commitment to meeting the demand for assistance within the four corners of the Commission's appropriations request. ONAP, like all FCC programming would greatly benefit from full funding for the FCC during Fiscal Year 2015. Unfortunately, flat funding and sequestration during the past several years has left consumer-based programming lacking in general outreach funds.

The Honorable Henry Waxman

Question 1:

Mr. Hunt's testimony asserts that the FCC has refused to allow the IG to hire criminal investigators despite the authority granted to the IG. But are there other legal considerations with respect to hiring Section 1811 criminal investigators? Are there other applicable laws or federal workplace rules that may need to be considered?

Response:

The FCC passes through the Office of Inspector General's (OIG) budget request to the Office of Management and Budget (OMB) and Congress, including Salaries and Expenses (S&E) accounts. Through this process, the OIG exercises independent discretion in determining the size and composition of its staff in accord with Section 8G of the Inspector General Act and subject to standard federal hiring and employment regulations and statutes. The OIG has chosen to utilize the Commission's Human Resources office, as opposed to standing up its own office or contracting with another federal agency for Human Resource functions.

Because the Communications Act of 1934 does not provide specific authority for hiring Section 1811 Criminal Investigators or equivalents, the FCC's Chairman is legally responsible for ensuring

that a decision to bring these employees to the FCC would comply with all applicable laws and federal workplace rules. Unlike virtually all other hires, Section 1811 employees (i.e. criminal investigators) are a special and unique category. In part, because such employees can be authorized to carry weapons their hiring requires particular scrutiny and consideration by the Chairman, in his delegated responsibility for the administration of the agency's internal affairs. The question of armed employees in our buildings, field offices, and acting for the agency in using weapons raises important and complicated questions regarding overall agency security and liability, employee safety, training, and storage of weapons.

A recent Congressional Research Service publication examined the role of Inspector Generals across the government and identified the laws and regulations that vest certain OIGs with law enforcement authority, which permits the use of guns and ammunition. The report also described some of the requirements and expectations of OIGs that have law enforcement authority, and includes some reasons that OIGs have expressed a need for law enforcement authority. This report is helpful in understanding the range of issues and concerns that the Chairman must consider in addressing Section 1811 employees. See <http://fas.org/sgp/crs/misc/R43722.pdf>

Question 2:

How do you respond to Mr. Hunt's assertion that former Chairman Genachowski approved the IG's request to hire Section 1811 criminal investigators, only to be overturned by Chairman Wheeler?

Response:

Chairman Genachowski did not approve the IG's request to hire Section 1811 criminal investigators. There was an error during his tenure related to the hiring process for potential criminal investigators, permitting an initial listing for this sort of personnel without appropriate Commission approval. This matter was corrected at that time and the listing was removed prior to Chairman Wheeler's arrival at the Commission.

The OIG's request for Section 1811 criminal investigators has been an active request during the tenures of at least five Chairmen. Chairman Wheeler is currently studying the issue, looking at the questions about agency security and liability noted above and considering how armed OIG personnel would integrate with the missions of the FCC and the FCC OIG.

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (2021 225-2927
Minority (2021 225-3641

October 24, 2014

Mr. David Hunt
Inspector General
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Mr. Hunt:

Thank you for appearing before the Subcommittee on Communications and Technology on September 17, 2014, to testify at the hearing entitled "Oversight of FCC Budget and Management."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on November 7, 2014. Your responses should be mailed to Charlotte Savercool, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to Charlotte.Savercool@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,


Greg Walden
Chairman
Subcommittee on Communications and Technology

cc: Anna Eshoo, Ranking Member, Subcommittee on Communications and Technology

Attachment

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20554



November 13, 2014

The Honorable Greg Walden
 Chairman
 Subcommittee on Communications and Technology
 Committee on Energy and Commerce
 U.S. House of Representatives
 2125 Rayburn House Office Building
 Washington, D.C. 20515

Dear Congressman Walden:

This is in response to your letter dated October 24, 2014, in which you requested additional information related to my testimony at the hearing entitled "Oversight of FCC Budget and Management."

The Honorable Bob Latta

1. In your most recent report to Congress you identify two significant deficiencies related to the FCC's new financial system which was implemented in October 2010. According to the report functionality and integration issues continue to exist and as a result certain activity continues to be processed manually in order to maintain the accuracy of system data. The report also states that there are security deficiencies in these IT systems.

The report describes these significant deficiencies as functionality and integrations issues.

Describe these issues. Identify the universal service funds impacted. Describe the impact of these issues on the FCC's oversight and management of these funds.

Office of Inspector General (OIG) Response

The two significant deficiencies referenced in our March 2014 report to Congress, Financial System Functionality and Integration, and IT Controls, were from the our Audit of the FCC's FY 2013 Financial Statements, published in the FCC FY 2013 Agency Financial Report (AFR).

In the report, the auditors noted that significant Universal Service Fund accounting transactions for Investments, Accounts Receivables and Budgetary transactions were tracked in spreadsheets and recorded at a summary level in the FCC's general ledger. The audit also found that improvements were needed in the FCC's entity wide security program.

However, the significant deficiency related to financial system functionality and integration is no longer valid. OMB Circular A-127 *Financial Management Systems*, which required financial systems integration, has been rescinded. (See OMB Circular A-123, Appendix D, *Compliance with the Federal Financial Management Improvement Act*, dated September 20, 2013) no longer requires financial systems to be integrated.

We are in the process of completing the FY 2014 financial statement audit and expect to issue our report to OMB no later than November 17, 2014.

The Honorable Anna Eshoo

1. As discussed during the hearing, the OIG received over \$20 million from the USF in 2008 to fund investigations. That amount is exempt from sequestration cuts and any balance can be carried forward year after year. Given the increase in funding, please provide answers to the following questions:
 - a. How much money remains unspent from the \$20 million in the USF fund?
 - b. Did the OIG hire any term employees using USF funds? If so, please provide their titles and job descriptions.
 - c. What additional work has the OIG conducted with its increased resources? For example, was there a spike in criminal prosecutions during the years immediately following the receipt of the \$20 million?
 - d. How have you accounted for expenditures from the \$20 million USF fund in your semi-annual reports to Congress since 2008?

OIG Response

- a. Of the \$21,480,000 transferred to the OIG in fiscal year 2008, approximately \$5,600,000 remains unspent.
- b.

Term Employees Hired with USF Funds	
Number	Position Title
8	Attorney Advisor
7	Auditor
1	Administrative Specialist
1	Mathematician
1	IT Specialist (INFOSEC)
1	Attorney Advisor - Special Counsel
1	Budget Analyst

Brief Job Descriptions

- Attorney Advisor

The Attorney Advisor assists in conducting complex and highly sensitive investigations into alleged violations involving the FCC universal service program. Under direction, the Attorney Advisor develops, evaluates, and implements investigation plans for sensitive, complex, investigations and other special investigative projects. Duties may include reviewing documents and electronic material; interviewing witnesses; collecting, analyzing, and reporting evidence; and drafting and presenting final reports.

The Attorney Advisor insures that all investigation steps are performed competently and timely; case files are updated, complete, and protected; investigative reports are submitted timely, complete, and accurate for distribution to appropriate authorities. Incumbents at higher grade levels work with minimal supervision on cases and legal issues of extreme complexity that can have a major impact on successful resolution of federal civil and/or criminal prosecutions.

- Auditor

The Auditor utilizes a mastery of accounting theories, audit techniques, and program knowledge to plan and conduct audits of the universal service programs. These audits are wide in scope and encompass broad, complex financial systems and operations.

Audits are conducted in accordance with Generally Accepted Government Auditing Standards and in compliance with OIG quality assurance policies and procedures. Standards require that auditors be trained and proficient in audit areas; obtain, utilize, and document sufficient evidence to support findings and conclusions; and maintain their independence in appearance and in fact.

- Administrative Specialist

The Administrative Specialist is responsible for administrative management support for the investigative and audit efforts related to universal service programs. The Administrative Specialist may also be utilized to work on parts of, or whole studies, related to OIG oversight of USF programs.

The Administrative Specialist works independently or on a team, as assigned, performing research, analyses, and evaluations in order to provide information required for studies related to OIG USF program oversight. Duties involve collecting information from within and outside of the FCC as related to USF programs

- Mathematician

The Mathematician analyzes relationships of quantities, magnitudes, and forms through the use of numbers and symbols by applying mathematical theories and techniques to the solution of practical problems. Data analysis is the key to developing and identifying

audit and investigative leads. Researching available universal service program data using mathematical knowledge in traditional areas, such as algebra, geometry, probability, and logic allows OIG to focus limited resources to high impact audits and investigations. Defining, developing and evaluating relationships in universal service program data, using mathematical principles, improves and enhances OIG oversight of the universal service programs.

The primary function of this position is to provide analyses, models and reports to improve management's planning and resource utilization in audits and examinations of universal service programs.

- IT Specialist

The IT Specialist provides information technology support for complex and sensitive audits and investigations relating to the universal service programs. OIG investigations often involve highly complex fraud schemes and require extensive knowledge and skill in forensic computer analysis. The incumbent conducts comprehensive analysis of all types of microcomputer and computer media searches and examinations, including recovering data that has been deleted/erased, fragmented, hidden, or encrypted from data storage devices.

The IT Specialist provides documented chains of custody for material related to investigations of criminal activity and works with law enforcement agencies. Duties include testifying in court as the expert witness; supporting investigations; and organizing, conducting, or coordinating evidentiary support where a computer or other electronic means is used in the commission of a crime. The incumbent creates programs to support legally sufficient forensic data recovery activities, conducts forensic examinations of electronic media and perform traffic analysis of data collected by the OIG in universal service program related investigations.

- Attorney Advisor – Special Counsel

The Attorney Advisor – Special Counsel served as Special Counsel for Universal Service Fund Oversight (Special Counsel) to the OIG, reporting directly to the IG or to another supervisor as directed by the IG. The incumbent provided authoritative legal advice based on research of matters relating to universal service programs, the Universal Service Administrative Company (USAC), the National Exchange Carrier Association (NECA) and its subsidiaries, and FCC rules, policies, regulations, and decisions.

The Special Counsel provided expert legal advice on issues relating to audits, inspections, investigations, and programmatic reviews of universal service programs, USAC and NECA, as well as program beneficiaries and contributors. Issues require consideration of intricacies of criminal, civil, and administrative law, as well as the various universal service programs. In addition, the Special Counsel provided legal guidance and assistance in the conduct of audits and investigations of potential criminal, civil or administrative violations. Support also included assisting in the preparation of subpoenas; issuing written opinions; providing legal interpretations; and training OIG staff on issues relating to the universal service programs.

- Budget Analyst

The Budget Analyst for the OIG Universal Service Fund (USF) utilizes knowledge and skill in the application of related laws, regulations, policies, precedents, methods and techniques of budgeting to support the Assistant Inspector General for Management (AIGM) in all matters related to oversight of universal service programs. The primary function of this position is to monitor use of the budget providing timely and accurate information to help ensure effective, efficient, and appropriate use of this special funding.

The Budget Analyst performs a wide variety of budget functions including the formulation, justification, and/or execution of OIG budgets, provides resource management support for audits and investigations of universal service programs.

- c. The \$21,480,000 enabled the OIG to add significant resources in both the investigative and audit areas.

Attorneys hired with the USF funds provided an opportunity to devote additional resources to on-going investigations as well as initiating new investigations of allegations of fraud in the USF program. Since 2008, E-rate cases have resulted in a total of over 69 years of prison time, over \$28 million in settlements, and over \$200 million in relinquished E-rate funding requests. In addition, we have a number of active criminal E-rate investigations under way, with additional potential cases identified. Lifeline investigations have resulted in \$27 million in forfeitures, with sentencing to be determined. Additional pending indictments allege \$32 million in fraud. Ongoing cases initiated with term employees include High Cost, Lifeline, and E-rate.

A high percentage of the audit staff working on universal service program oversight from 2008 through 2013 consisted of term employees. During this period, OIG issued 25 reports including 10 Lifeline program, four E-rate program, and 11 Contributor compliance audits.

- d. Since 2008, OIG has reported the current status of the number and type of term employees hired with USF funds in each Semiannual Report to Congress. The Office of Audit and the Office of Investigations reported activity during each semi-annual period, including oversight of the universal service programs.

As stated above, OIG hired 20 four-year term employees, including attorneys, auditors, and support personnel. While the IG was able to obtain a one-year extension for the final 12 term employees, all terms have now ended. Our current initiative is to utilize the approximate remaining balance of \$5.6 million to contract for audits of universal service programs.

2. **I understand that the OIG routinely uses outside contractors to perform its audits. Given the specialized knowledge that it takes to understand some of the complex issues unique to the agency, have you considered using your increased resources to staff up auditors internally rather than outsourcing the work?**

OIG Response

Given the specialized knowledge and experience required to understand complex issues unique to the FCC, OIG resources would be better utilized for increasing staffing rather than outsourcing work. Currently, the OIG Office of Audit (OA) is staffed with 15 full time employees with plans to hire three additional auditors in FY 2015. This additional staffing will help OA increase its oversight of FCC programs, but not eliminate the necessity to use the independent public accounting (IPA) firms to accomplish our mission.

Because adequate in-house resources are often unavailable, agencies rely on contracted audit services. The Inspector General Act of 1978, as amended, requires OIGs to ensure that the work of non-Federal auditors adhere to generally accepted government auditing standards (GAGAS). GAGAS requires OIG to attest to the work performed by the IPA in those audits where the IPA serves as the principal auditor. Numerous OIG staff hours are expended administering IPA contracts, monitoring the contractor's work and facilitating the audit process to ensure that work performed by the IPA adheres to GAGAS.

OIGs are generally better served when using resources are allocated to staff in-house auditors, rather than outsourcing the work. However, that requires increased permanent funding for the hiring, development, training, and retention of additional staff. Current OIG funding for Salaries and Expenses does not provide for significant increases in permanent full time staffing. Additionally, OIG does not have authority to use USF funds to hire permanent full time employees.

The Honorable Henry Waxman

1. **In your testimony you raised concerns about the newly established USF Strike Force being duplicative and wasteful. Do you believe that the FCC has the authority to oversee and enforce the operation of USF, including making referral to federal law enforcement agencies when appropriate?**

OIG Response

Yes, the FCC has not only the authority, but the obligation to oversee and enforce the operations of the USF. However, the OIG, pursuant to the Inspector General Act, is responsible for preventing, detecting and ferretting out fraud, waste, mismanagement and abuse in USF programs and operations. OIG should be, according to the IG Act and the FCC's own rules and regulations, the sole organization to investigate fraud and make appropriate referrals to law enforcement agencies. If Congress wants to revise this charge, it should be done via appropriate legislation.

Strike Force managers have declared that they will investigate allegations of both criminal and civil fraud, and with their additional resources in place, will refer cases directly to the DOJ/FBI and then will continue to assist law enforcement in the prosecution of those matters. In this regard, they take on OIG-like responsibilities and unlike OIG, do not have the responsibility to report to Congress.

While we applaud the Commission's decision to take a more aggressive stance in combating fraud, waste and abuse, the Strike Force is not the most efficient tool to do so. The Strike Force asserts that their mission does not impinge on OIG's work, maintaining there is "sufficient fraud to go around."

As I testified, this revelation is because of the work conducted by OIG. To now state that a new entity can come aboard and that it will have zero negative impact on the work conducted by the OIG is an unrealistic assumption. For example, both offices will review the exact same data when looking for evidence of fraud, will review and address whistleblowers' concerns and allegations, and will be developing cases for referral to the appropriate authorities. At some point, one would assume one office would refer the case to law enforcement and continue to assist in the matter, while the other office effectively will have wasted countless months developing evidence, with the attendant risk that the integrity of the investigation may be compromised by the duplication of effort. Moreover, because OIG cannot ignore evidence of waste, fraud and abuse, we will be forced to monitor every investigative matter conducted by the Strike Force that concerns non-OIG directed cases.

The fact that the Strike Force is blurring the previously clear demarcation separating the work done by EB (enforcement of the rules) and that done by OIG (fraud investigations) has not gone unnoticed. This past week, we received an email from an attorney who represents numerous targets of OIG investigations, questioning whether two entities within the Commission should be conducting the same investigation, noting both the excess consumption of tax payer dollars and well as the imposition of greater burdens on the regulated entity.

Once there is an acknowledgement that the two entities cannot be tasked with the same role, I believe it is critical to stress that the overarching reason for the existence of the position of IG is to promote transparency and integrity in government. The role of investigating fraud, waste and abuse and referring these matters to law enforcement should reside exclusively with the OIG, as it does in other agencies, and not with the Strike Force. If Congress, or the agency believes additional resources need be allocated to the detection and prevention of fraud in FCC programs, those resources should be concentrated in the OIG.

- 2. Please describe the process by which the OIG determines the appropriate level of its annual budget request. For example, does your office develop an analysis of the required expenditures and consult with the FCC's Chief Financial Officer?**

OIG Response

The OIG Assistant Inspector General for Management (AIGM), in coordination with the AIG for Audit and AIG for Investigations, prepares the OIG annual budget request for review and approval by the Deputy Inspector General (DIG) and Inspector General (IG). The OIG budget is separate from the FCC budget but included in the FCC annual budget submitted to Congress. We consult with the Chief Financial Officer (CFO) and his staff to ensure all current year data and projected costs is included in our budget considerations.

The OIG budget analysis begins with a review of previous year accomplishments, requirements and expenditures to project follow-on budget year requirements. The analysis is supported by

audit and investigative plans and requirements, training, travel and equipment needs necessary for OIG to complete assigned missions.

The IG, the DIG and/or the AIGM meet with OMB to describe accomplishments and mission essential requirements. This interaction provides an opportunity to discuss budget requirements, agency concerns, and ongoing and new initiatives while providing OMB with up to date information about OIG.

Finally, the AIGM compiles and formats the IG approved budget for submission to the CFO and the agency Budget Officer. The CFO and Budget Officer review the budget and work with the AIGM to finalize the submission for inclusion in the FCC budget submission to OMB and Congress.

3. Your testimony asserts that “FCC management retains a right to approve all OIG hires, a requirement which appears to contravene the IG Act and impugn the independence of the OIG.”

Could you describe all employee requests made to the FCC’s Human Resources office that were turned down, including job description?

OIG Response

The only positions OIG has requested to fill that have been turned down are repeated requests to hire criminal investigators. However, the appearance of an independence issue that is created by being required to ask permission from the FCC to hire staff creates a problem that cannot simply be explained away by “it’s rarely happened.” Every time one of my managers has to request permission from an FCC manager to hire someone, it creates, at a minimum, the appearance of a lack of independence. *Government Auditing Standards*, 2011 Revision, states “Independence in appearance (is) the absence of circumstances that would cause a reasonable and informed third party, having knowledge of the relevant information, to reasonably conclude that the integrity, objectivity, or professional skepticism of an audit organization or member of the audit team had been compromised.”


Management’s ability to influence an OIG’s ability to perform its work by withholding resources, or attempting to influence the use of OIG resources, including the hiring of staff, creates the appearance of a lack of independence regardless of whether independence is compromised in fact. Congress recognized this risk in enacting the Inspector General Reform Act of 2008 (Public Law 110-409) requiring, among other things, that the head of an agency shall separately identify the budget request of the agency’s Inspector General. This requirement was a great step forward in freeing IGs from the appearance of influence from the agency head. Allowing the FCC to hold a potential veto over OIG hiring decisions degrades these benefits.

After working for over a year researching and preparing the necessary documentation, including posting the job announcement and developing a list of qualified candidates after the announcement closed, FCC Human Resources would not allow us to interview and hire criminal investigators. Very shortly after Chairman Wheeler took his office, I was informed that the Chairman did not support the hiring of criminal investigators by OIG.

As discussed in my testimony of September 17, 2014, criminal investigators are critical to both the furtherance and expansion of our investigatory capabilities. Given the widespread acceptance and success of criminal investigators at many OIGs, the FCC's reluctance to support us in this effort is baffling.

As you requested, I have attached the complete GS-1811-13 job description to my response.

I would be happy to discuss these matters further with you at your convenience.



David L. Hunt
Inspector General

cc:
The Honorable Anna Eshoo, Ranking Member
Subcommittee on Communications and Technology

Attachment – GS 1811-13 Criminal Investigator Job Description

Office of Inspector General
Federal Communication Commission
Criminal Investigator
GS-1811-13

Introduction

This position is located in the Federal Communications Commission (“FCC”) Office of the Inspector General (“OIG”). The OIG is responsible for implementing the Inspector General Act of 1978 (Public Law 94-454), as amended. This requires that the OIG conduct audits, inspections, and investigations of agency programs and operations to promote economy and efficiency and to detect and deter waste, fraud, and abuse. The OIG also reviews existing and proposed legislation and regulations relating to the FCC and to the OIG. The OIG is required to keep FCC Commissioners and the Congress fully and currently informed about problems and deficiencies relating to the administration of FCC programs and operations and the necessity for and progress of corrective action. The Inspector General supervises and directs a subordinate staff primarily consisting of auditors, investigators, support staff, and such non-Federal staff as needed to meet these responsibilities.

The Office of Investigation conducts a program of investigations of FCC activities, functions and programs. The Assistant Inspector General for Investigations (“AIGI”) is responsible for directing, planning, organizing and managing the work of the Office of Investigation and for effective and efficient use of OIG resources.

MAJOR DUTIES

The incumbent plans, executes and may lead investigations into violations of Federal laws and regulations and FCC policies relating to FCC operations and programs. Cases assigned to the incumbent include difficult, sensitive or complex OIG or joint OIG and other law enforcement authorities investigations and are so characterized by: the interrelated activities in which the subjects under investigation are involved; the wide number of separate investigative matters that are, or may become outgrowths of the original matter; the exceptional difficulty encountered in establishing the interrelationship of evidence; and the extreme sensitivity of matters involved in assigned cases.

The incumbent interviews witnesses and subjects, executes searches, performs surveillance, and administers oaths. Upon deputation as Special U.S. Marshal, the incumbent apprehends and arrests persons violating U.S. criminal laws and conducts searches and seizures incident to the arrest when appropriate, and pursuant to a warrant. The incumbent collects and preserves physical and documentary evidence of crimes and other violations of law as appropriate.

The incumbent conducts extensive research by reviewing records such as financial statements, bank, payroll and phone records, ledgers, reports and other correspondence such as emails for investigatory leads and evidence. Records review may include review of documents/records in electronic format.

The incumbent develops evidence, analyzes and evaluates investigative findings; organizes findings in a logical and presentable manner; and prepares clear, complete, factual, grammatically correct and concise final written reports of the evidence, findings, and conclusions of investigations for dissemination to U.S. Attorneys, FCC managers and other Federal agencies. Reports may be used for determinations of the whether the case merits prosecution, or other civil or administrative action. Incumbent may also verbally report facts and findings to senior officials within and outside of the Commission and must do so in a concise, logical and objective manner.

Incumbent may direct work of other professional investigators, assign work, provide technical advice and assistance, review completed work, and provide on-the-job training for lower grade investigators.

In those cases selected for prosecution, the incumbent provides ongoing assistance to the Federal investigators and attorneys. Incumbent may provide testimony in civil, criminal, administrative or quasi-legal proceedings and/or grand jury hearings on complex government programs and operations.

Incumbent establishes and maintains relationships with investigators in other Offices of Inspector General and with employees of other Federal, state, and local law enforcement agencies, for the purposes of obtaining and exchanging information relevant to investigations.

Incumbent maintains and applies working knowledge of laws regarding: (1) the rights and warnings of U.S. citizens; (2) government workplace searches; (3) fraud against the U.S.; and (4) the Federal Rules of Discovery, Evidence and Criminal Procedure, and other legal authorities including the Fourth, Fifth, Sixth and Fourteenth Amendments to the U.S. Constitution. Incumbent keeps abreast of significant court decisions and other legal opinions interpreting all the above, as well as statutes and rules and regulations, governing or effecting FCC programs and operations.

Provides regular and periodic data to the AIGI to keep the AIGI fully informed in all investigations and as necessary to make adjustments in short and long range planning.

Incumbent may provide input in developing work plans for the Investigations Group. Incumbent may assist the AIGI in the preparation of the investigative portion of the Semiannual Report, and in the preparation of FOIA responses.

Incumbent performs other tasks as assigned by the AIGI, or as needed.

FES Factors

FACTOR 1: KNOWLEDGE REQUIRED

Level 1-8 1550 points

Expert knowledge of applicable criminal and civil laws and Federal rules of evidence, rules of civil and criminal procedure and relevant constitutional and statutory law, as well as FCC jurisdictional responsibility for major criminal or civil investigations in the numerous geographic locations throughout the United States. Expert knowledge of the theories, principles, practices, and techniques of self-defense; the use of firearms; undercover and surveillance work; and the ability to deal effectively with emergency situations. The incumbent manages all phases of

various categories of investigations and the ability to apply these toward the development and management of individual cases and the OIG's investigative program.

The incumbent also must have sufficient knowledge of, or the ability to quickly learn, the substantive FCC programs. Knowledge is also required in obtaining, working with, and discretely handling complex and sensitive facts, evidence and witnesses; planning, coordinating and conducting investigations; maintaining evidence and investigative records in accord with OIG investigative policy and procedures; and determining the validity of allegations, including the scope of illegal activity or administrative mismanagement of the Commission operations or programs.

Incumbent must possess expert knowledge of specialized investigative techniques, devices and procedures including the ability to conduct and supervise meaningful interrogations by eliciting necessary information and pursuing pertinent investigative leads.

The incumbent must possess skills in developing and supervising innovative approaches to investigations; collecting and assembling facts; bringing the investigation to a logical conclusion; presenting facts to FBI agents or U.S.

The incumbent must have completed, or shortly after employment must successfully complete, the 9-week Federal Law Enforcement Training Center's Basic Criminal Investigator training program at Glynco, GA. (Failure to pass the training program on the first attempt will result in separation from the criminal investigator position and may also result in separation from the agency.)

Extensive current knowledge and skill in forensic accounting or forensic computer analysis is required. The incumbent must have demonstrable experience with specific forensic tools and analysis. The position requires the ability to quantify and summarize forensic investigation elements and present them to other law enforcement agencies and in criminal and civil litigation settings.

The cases assigned to this position are representative of the full performance level of work performed, the incumbent must select the applicable methods, procedures and techniques for each case on the basis of a high degree of judgment, use discretion in the manner that evidence and facts are developed, recorded and protected, and maintain an awareness of potential repercussions.

The incumbent must have the ability to establish the interrelationship of facts and evidence and to present findings in reports that are clear, concise, accurate and timely submitted for appropriate review and action.

The incumbent must have knowledge and experience in the application of criminal, civil and administrative investigative tools and techniques and modern detection methods and equipment. The incumbent must have the ability to utilize the full range of demanding investigative techniques such as electronic monitoring of conversations, interrogation of reluctant witnesses, and querying of database information.

The incumbent must have an ability to determine independently if evidence can meet the various standards for introduction in Federal prosecutions.

The incumbent must have sensitivity to international protocol and an ability to interact effectively with the general public and with other Federal, State and local law enforcement authorities to maximize prevention and detection of Federal violations.

The position requires skills and abilities that enable the incumbent to work effectively with individuals and/or groups at all levels of government, as well as the public and private sectors.

This position requires skills and abilities in oral and written communication, clearly reporting facts, concisely and accurately on investigative matters.

The ability to exercise tact and discretion while dealing with matters of extreme sensitivity.

The incumbent may serve as a Federal Officer. The incumbent may be authorized to carry a firearm and if so, must participate in appropriate training to maintain this authorization.

FACTOR 2: SUPERVISORY CONTROLS

Level 2-5 650 points

The incumbent reports to the Assistant Inspector General (AIGI) who provides overall program, policy and technical guidance. The incumbent is responsible for planning, designing and carrying out the investigations independently. This includes outlining objectives, preparing justifications for any resources needed and then coordinating with any other jurisdictions that are appropriate to the investigation and that may include criminal activities at any of FCC's facilities of in any FCC program. The AIGI provides any information, which significantly impacts the program (i.e. policy, directives and/or procedures, program objectives, and management constraints such as staff, budget, and time factors). Progress is discussed and work is reviewed as scheduled throughout the course of the investigation.

Incumbent develops and/or recommends changes in program investigative objectives and strategy. These changes often set patterns for subsequent investigations in similar areas and often are adopted for use by investigators in lower grades. The incumbent keeps the AIGI informed of the performance of assigned staff, project status, findings and/or conclusions, and coordinated preparations of all reports.

The incumbent is responsible and accountable for all final work products prepared by self or by team members. Completed work is considered technically authoritative and is reviewed in terms of feasibility, compatibility with other work, or effectiveness in meeting objectives and in completing assigned investigative activities, (considering such factors as indictments and convictions secured, and financial recoveries obtained).

FACTOR 3: GUIDELINES

Level 3-5 650 points

Guidelines include FCC and OIG policies and procedures, Federal regulations, and pertinent Executive Orders and Legislative Acts; the Freedom of Information Act and Privacy Act; Federal Personnel Manual; Title 5 and 18 of the United States Code; recent Supreme Court decisions; Counsel of Inspectors General on Integrity and Efficiency (CIGIE) practices and standards related to the conduct and reporting of investigations; the United States Attorney General Guidelines for Offices of Inspector General with Statutory Law Enforcement Authority; and legal interpretations that effect investigations. The incumbent must use experience,

knowledge, judgment and discretion in applying these guidelines to a variety of specific situations.

FACTOR 4: COMPLEXITY

Level 4-6 450 points

The incumbent is responsible for planning and carrying out investigations of criminal activities and other forms of improper or prohibited conduct directed against FCC programs and operations. The incumbent's assignments will involve major investigations of activities which may have direct and substantial effect on the organization.

The incumbent is subject to potential, substantial program changes, rescheduling of assignments, reestablishing of priorities, and must have the ability to withstand considerable continuing pressure.

The incumbent serves as the leader or coordinator of investigations involving complex, critical, or highly dangerous components. The investigations may take an extended period of time and may involve investigators from other law enforcement agencies.

Investigations conducted, coordinated, and reported by the incumbent are often extremely sensitive due to the prominence of the suspects, victims, and individuals involved. Extreme good judgment and prudence are required to avoid premature leaks to news outlets, or others, that might compromise an ongoing investigation or result in embarrassment to the OIG or the Commission.

The incumbent compiles evidence received from other investigators nationwide and recognizes patterns of behavior in order to anticipate future actions. Assignments may involve investigations of complex organizations that may be connected with or bordering on organized crime.

Incumbent may coordinate with federal, state and local law enforcement personnel to resolve, subject to AIGI approval, potential jurisdictional issues.

FACTOR 5: SCOPE AND EFFECT

Level 5-5 325 points

The purpose of the incumbent's work is to promote economy, efficiency, and integrity in FCC's programs through the conduct of investigations which uncover fraud, waste, abuse, improper activities and other violations of statute and regulations. In addition, the incumbent provides technical leadership for less experienced investigators and professional expertise in the development of policies, practices and standards to be implemented by the staff.

The successful conduct of the investigative program affects a wide range of agency activities. Efforts may result in changes to FCC-wide policies and procedures, improving effectiveness and efficiency, cost savings, etc. Investigations may also result in debarment of contractors, fines and/or imprisonment of the individual violators, or other actions.

Investigations may result in the recovery of funds, property and criminal convictions, and may deter future criminal and civil violations. Investigations may also influence changes to FCC policies and regulations.

FACTOR 6: PERSONAL CONTACTS

Level 6-4 110 points

Contacts include FCC employees and managers, other IG Offices, U.S. Attorneys, grand juries, state and local police, other law enforcement officials, other government officials, and subjects of investigations. When requested, the incumbent represents the OIG in conferences, professional meetings, and with the news media or at other required public appearances. Many contacts developed throughout the course of an investigation are not routine, and cannot be predicted.

FACTOR 7: PURPOSE OF CONTACTS

Level 7-4 220 points

Contacts are for the purpose of securing information and evidence pertaining to investigations, serving legal documents, and communicating results of investigations to interested parties, e.g. FCC officials, other law enforcement officers, U.S. attorneys, grand juries, etc. Contacts may also be for the purpose of promoting the objectives of the OIG; to exchange information; to form professional relationships; or to ensure that the policies, procedures, and operations of the OIG are effective.

FACTOR 8: PHYSICAL DEMANDS

Level 8-2 20 points

The physical demands placed on the incumbent vary. In the office setting, the work will normally be sedentary. However, in the context of direct investigative activities, the work may involve tasks requiring vigorous physical effort, such as frequent and lengthy episodes of travel with long periods of extended work hours, conducting surveillance at any hour, location, or in any weather condition, and performing searches of premises for evidence, which may entail moving, lifting, and carrying heavy or bulky objects. The duties may also involve the use of firearms.

Manual dexterity with comparatively free range of motion of fingers, wrists, elbows, shoulders, hips, and knees is required. Arms, hands, legs, and feet must be intact and functioning in order to perform the duties satisfactorily. Incumbent must possess sufficiently good distance vision, with or without glasses, in each eye, in order to perform the duties satisfactorily. Near vision, with or without glasses must be acute for reading printed material in 8pt font. The ability of the applicant to hear the conversational voice and whispered speech without the use of a hearing aid is required.

The work requires emotional and mental stability. It may require long periods of overtime, intense concentration, and it may involve activities conducted under difficult and dangerous conditions.

FACTOR 9: WORK ENVIRONMENT

Level 9-2 20 points

Some work will be performed in an office setting. Operational investigative work may take place in any setting, where the subjects live or work. Assignments include both scheduled and short notice unscheduled travel to any location within the United States by all modes of transportation. Duties may require the operation of a motor vehicle on expressways and in heavy traffic in metropolitan areas. The work may entail entry into high physical risk areas and it subjects the criminal investigator to extremes of weather, unpleasantness, and potentially dangerous situations.

Total points 3,995

This position is covered by special retirement for law enforcement officers. Extra retirement contributions are withheld and retirement is mandatory on the last day of the month in which the officer becomes 57 years of age or completes 20 years of service if older than 57. Alternate employment opportunities may exist at that time.

To be covered by this special retirement for law enforcement officer annuities, applicants must NOT have reached their 37th birthday by the entrance on duty date for this position OR if over 37 years of age, applicants must have had prior or present Federal service covered under this special retirement for law enforcement officers. (Fax in your latest SF-50 to verify you were covered under this special retirement).

